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ABSTRACT

The federal government has no constitutional mandate relating to education, and must deal with established institutions and private accrediting agencies. Federal-aid-to-education legislation implies that in order to be eligible for benefits, institutions must be accredited by nationally recognized, nongovernmental accrediting organizations, which must be recognized by the Office of Education. This has the effect of making accreditation the equivalent of eligibility. The problem of eligibility determination is explored, along with the role of the federal government, private accrediting agencies, and the states. Proposed solutions to the problem of eligibility determination are reviewed, and it is concluded that no responsible change will come about unless public pressure requires it. (Author/LBH)

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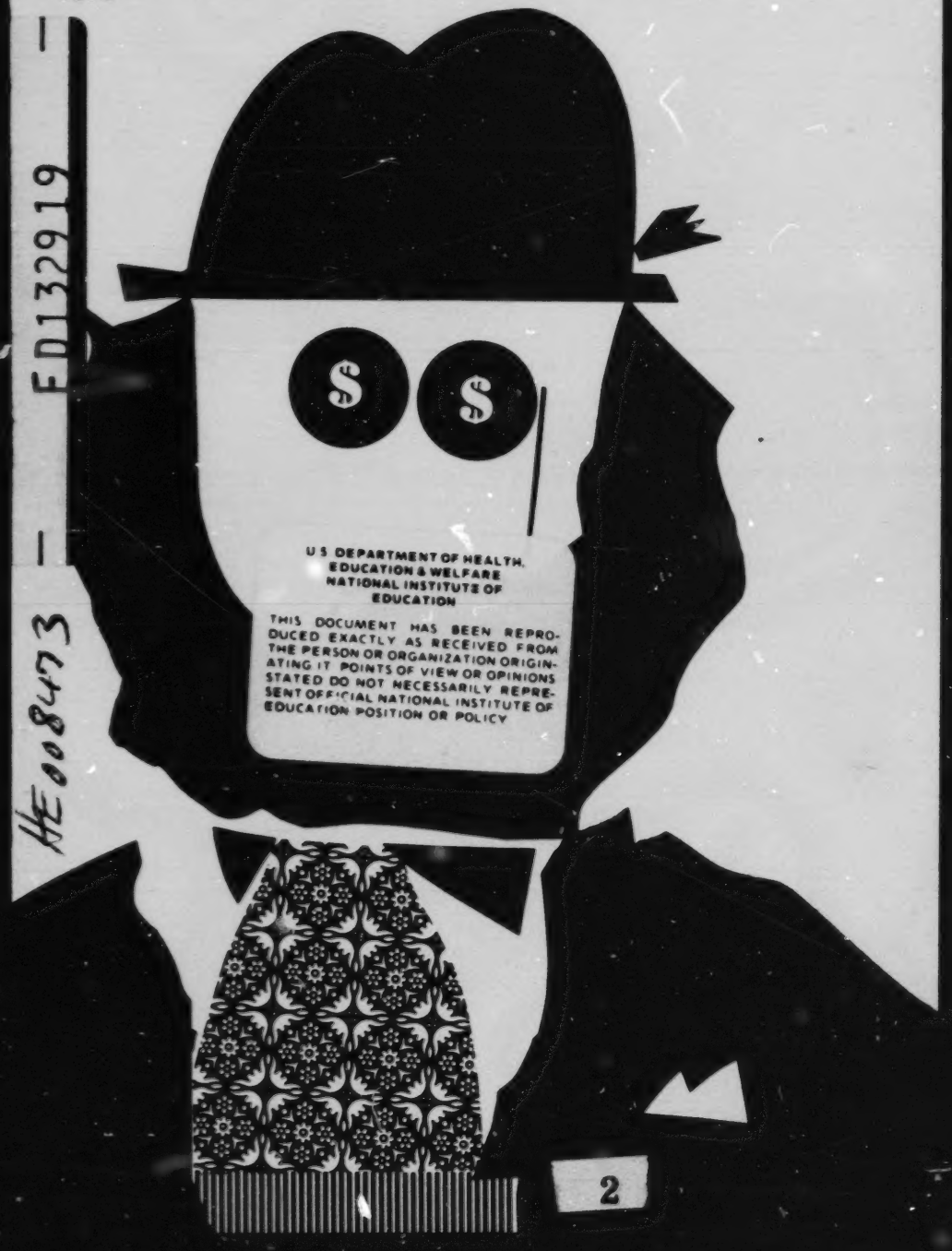
Accreditation and Institutional Eligibility

David A. Trivett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Accreditation and Institutional Eligibility

David A. Trivett

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Foreword

The large amounts of money granted by the federal government in support of higher education warrant an examination of the way in which the government determines who is eligible for this money. At the heart of the eligibility relationship lies the dependence of the federal government on private accrediting organizations to determine that postsecondary institutions have met qualitative criteria. With the passage of the Higher Education Act of 1965, a much larger segment of institutions became eligible to participate in federal education programs. This prompted the Office of Education to create the Accreditation and Institutional Eligibility staff and an advisory committee to set up criteria and procedures to approve accrediting groups, to list them, and to determine preliminary institutional eligibility. One idea proposed is that there is an eligibility triad: the states, private accrediting agencies, and the federal government. Ideally, the states establish minimum legal and fiscal standards for institutions, the federal role is primarily administrative, and accrediting agencies certify that academic standards are met. The author points out that the federal government has no constitutional mandate relating to education, and must deal with established institutions and private accrediting agencies. Federal-aid-to-education legislation implies that in order to be eligible for benefits, institutions must be accredited by nationally recognized, nongovernmental accrediting organizations, which, in turn, must be recognized and listed by the Office of Education. This has the effect of making accreditation the equivalent of eligibility. Education consumer issues have brought into focus questions about whether institutional accreditation should include some measure of institutional probity as part of the overall assessment of institutional quality. The author explores the problem of eligibility determination, the role of the federal government, private accrediting agencies, and the states, and reviews proposed solutions to the problem of eligibility determination. He concludes that no responsible change will come about unless public pressure requires it. David A. Trivett is a research associate at the ERIC Clearinghouse on Higher Education, and has written a number of studies on related issues in higher education.

Peter P. Muirhead, Director
ERIC/Higher Education

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Development of the Need for Eligibility Determination

In view of the large amounts of money expended in recent years by the federal government for purposes associated with education, it is no small irony that education is a function constitutionally reserved for the states. The influence of the federal government in education derives from its "spending power," or the right of the government to raise and spend money for special purposes and to attach limits or conditions to the expenditures of those funds. The "spending power" right has been the constitutional basis for all federal-aid-to-education programs. Under legislation establishing these programs, the Commissioner of Education is authorized to determine the eligibility of institutions and individuals to participate in and receive funds appropriated for the programs. One other right of the federal government, the power to regulate commerce, has been applied only in a limited way to the operation of education in the U.S. (Kaplin 1975, pp. 1, 9-11). Many of the circuitous actions of the federal government while managing funds appropriated under the "spending power" to aid the citizens' pursuit of education are explained by its desire to avoid any intrusion into the practice of education itself.

In the past there was little reason to take note of the fragile link between the federal government and education. Thirty years ago a serious discussion of problems associated with eligibility of institutions for federal aid to education would not have been possible; there was limited federal aid and a restricted perception of the role of federal spending in education (Perkins 1975, pp. 9-10). The expansion of that perception and origin of the "problem" of institutional eligibility can be traced to the early 1950's.

The Office of Education has dealt with educational institutions and accrediting agencies throughout much of its history. However, with the enactment of the Veterans' Readjustment Assistance Act of 1952, Public Law 82-550, the U.S. Commissioner of Education was required to publish, for the first time, a list of recognized accrediting agency associations. These organizations were to be listed by the Commissioner because he had determined that they were reliable authorities on the quality of training offered by educational institutions (Herrell 1974, p. 41). Their role, in turn, would be to list those institutions accredited by them.

Reflecting the chain of responsibilities still involved in the determination of eligibility, Public Law 82-550 requires the states to designate an approving agency. If the states do not, the Veterans' Administration is authorized to do so. State approving agencies are authorized to approve courses offered by educational institutions that are accredited by a nationally recognized accrediting agency appearing on the list published by the Commissioner. As a consequence, the actions of nongovernmental accrediting agencies, approved by one arm of government, were used by another arm of government as a basis for a decision about benefits for what might be another nongovernmental enterprise, such as a private educational institution (*Report* . . . 1975, p. 1).

To reduce problems of abuse that had been associated with the Servicemens' Readjustment Act of 1944, Congress placed its confidence in private accrediting agencies as reliable and inexpensive vehicles that state and federal agencies could depend on (Finkin 1973, pp. 343-348). It also assumed that nationally recognized accrediting agencies existed.

In the years that followed the passage of the 1952 Act, the basic provisions of that pattern of reliance have been repeated in 14 major federal-aid-to-education acts (Muirhead 1974b, p. 123). These include the Health Professions Act (1963), Vocational Education Act (1963), Civil Rights Act (1964), Nurses Training Act (1964), State Technical Services Act (1965), Higher Education Act (1965), Allied Health Professions Act (1966), Educational Professions Development Act (1967), and the Education Amendments of 1972 (*Report* . . . 1975, p. 2).

The gradual evolution of reliance on this basic system is reflected in the National Defense Education Act of 1958, wherein the basic eligibility language from 1952 was used verbatim. Although opposition to the language surfaced in Congress, arising from fear of the extension of federal control over education, the shortages of trained personnel to be alleviated through the act were apparently more critical in the minds of Congressmen, and the basic mechanism was not seriously questioned. Following the example of the Higher Education Facilities Act of 1963, similar language was used in an act that was clearly an aid-to-education measure. The Commissioner was also authorized to appoint an advisory committee to deliberate on institutions not eligible for accreditation by existing agencies (Finkin 1973, pp. 352-355).

Higher Education Act of 1965

Passage of the Higher Education Act of 1965 pushed the Office of Education into the determination, compilation, and listing of a much larger set of institutions eligible to participate in federal education programs (Herrell 1974, p. 39). In 1968, the Commissioner of Education, facing the burden of eligibility determinations brought by the Higher Education Act of 1965, established the Accreditation and Institutional Eligibility Staff (AIES) and an advisory committee. The purpose of the AIES is to administer criteria and procedures for approving accrediting organizations, list them, and determine preliminary eligibility of institutions* (*Report* 1975, p. 2). By this move of administrative necessity, the Office of Education became more involved with the operation of accrediting agencies.

Many of the programs established through the Higher Education Act of 1965, and as amended in 1972, remain in effect. The act defines an eligible institution as follows:

> Section 1201 "As used in this Act—
>
> (a) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an education program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides no less than a one year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). For purposes of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered (Higher Education Act of 1965, Title XII, Section 1201).

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* In spring 1976, the AIES became the Division of Eligibility and Agency Evaluation (DEAE), but it is referred to as AIES in this publication for reasons of bibliographic convenience.

It is important to note that this eligibility language requires the institution to be legally authorized within the state, to be accredited by a nationally recognized accrediting agency or, if not, to be making progress toward that objective, as determined by the Commissioner, or to be able to produce evidence that three accredited institutions will accept credit for transfer purposes from that institution. The Commissioner's basic responsibility is to produce the list of nationally recognized accrediting agencies.

Again from the 1965 Act, the "Eligibility for Special Assistance" section under Title III illustrates how the basic eligibility is shared for the purposes of special program titles:

> Section 302 (a) (1) For the purposes of this title, the term "developing institution" means an institution of higher education in any State which—(A) is legally authorized to provide, and provides with the State, an education program for which it awards a bachelor's degree, or is a junior or community college; (B) is accredited by a nationally recognized accrediting agency or association determined by the Commissioner to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation; (C) except as is provided in paragraph (2), has met the requirements of clauses (A) and (B) during the five academic years preceding the academic year for which it seeks assistance under this title; and (D) meets such other requirements as the Commissioner shall prescribe by regulation, which requirements shall include at least a determination that the institution (i) is making a reasonable effort to improve the quality of its teaching and administrative staffs and of its student services; and (ii) is, for financial or other reasons, struggling for survival and isolated from the main currents of academic life . . . (2) (b) Any institution desiring special assistance under the provisions of this title shall submit an application for eligibility to the Commissioner at such time, in such form, and containing such information, as may be necessary to enable the Commissioner to evaluate the need of the applicant for such assistance and to determine its eligibility to be a developing institution for the purpose of this title . . . ."

Thus, if developing institutions are to be eligible for program benefits, they must have legal authorization to operate within a state, accreditation by a nationally recognized agency, as determined by the Commissioner, or be making progress toward it. Furthermore, special program requirements must be met—the institution is making an effort to improve, is isolated from the mainstream of academic life, and is struggling for survival, with the exact meaning of these terms left to the discretion of the Commissioner, as described in the pertinent regulations.

In 1972, the Amendments to the Higher Education Act of 1965 use similar eligibility language while broadening the universe of institu-

tions covered by the legislation. Accredited collegiate and associate-degree schools of nursing were included, as were accredited proprietary institutions and community colleges with accredited or pre-accredited status. With little debate, the requirement for accreditation was again put in effect using eligibility language (Finkin 1973, p. 362).

Accompanying the extension of eligible institutions in 1965 and 1972 was an increased emphasis on financial support for individuals participating in postsecondary education. These changes have intensified concern over the wisdom of determining the eligibility of institutions to receive money directly from the federal government (or indirectly through students) by means of a reliance on private accrediting agencies recognized by the government (*Report . . .* 1975, p. 2).

Eligibility Relationship

It is important, therefore, to examine the eligibility relationship itself. Emanating from the language of authorization in the various acts, and drawing the numerous elements of the world of education, government, and private associations into play with each other, the relationship forces the federal government into a peculiar role of dependency upon the private nongovernmental accrediting organizations. At the same time, it must determine who is eligible to receive federal money that is authorized for educational assistance to individuals and institutions.

Minimum statutory requirements must be met in three categories before an institution or school can become eligible to participate in a federal-aid-to-education program regulated by the Office of Education. First, the institution must conform to specific factual requirements, such as the type of school, length of programs offered, and legal authorization to operate. Second, any special requirements established by program administrators must be met. The third category, which is the source of the most complex problems faced by the Office of Education in determining eligibility, requires that qualitative aspects of the school or educational program be determined. Accreditation is one method used in qualitative determination (Herrell 1974, p. 40).

Based on statutory authority, the Office of Education actually considers seven distinct elements of eligibility prior to the determination that an institution is eligible to participate in a program. These elements include "admissions"—whether the institution requires that its enrollees be high school graduates or the equivalent. For some

acts and titles it is permissible for specific categories of institutions to admit those who have dropped out of elementary school. "Authorizations" includes the requirement that every institution be sanctioned by its state to offer programs of postsecondary instruction. The category "programs" covers whatever is specifically required by the legislation, from baccalaureate degree limitations, to six-month programs, to graduate study. Under "governance", institutions must be determined to be eligible on the basis of their public, private nonprofit, private profit, or proprietary status. In addition to these elements plus accreditation, eligibility requirements include "religious or sectarian exclusion," Civil Rights compliance, and Buckley Amendment compliance ("Federal Eligibility System. . ." 1975, p. 39).

The element concerned with the qualitative assessment of the institution or program "traditionally has been determined in American education by private, non-government accrediting commissions which have met specific recognition criteria established by the Commissioner of Education to have their accrediting rulings utilized for purposes of federal funding eligibility" (p. 39). However, alternatives to accreditation are prescribed by the legislation. These include certification of acceptance of transfer student credit by three accredited colleges, and interim approval by the advisory committee in cases of schools without access to a nationally recognized accrediting agency. In specific categories, schools are eligible on the basis of approval by recognized state agencies.

When seeking certification of eligibility, an institution first requests information and forms from the Office of Education. It, in turn, provides the forms, guidelines, and Civil Rights compliance forms. The institution then returns the completed forms to the AIES where the information is reviewed. When the institution is determined to be eligible, its administrators are notified. Thereafter, administrators of specific federal programs oversee the institutional use of federal money ("Federal Eligibility System. . ." 1975, p. 40).

If the world of postsecondary education were static, eligibility determination would be a simple matter: (1) institution is chartered by state; (2) institution is licensed by state; (3) institution is accredited by accrediting organization, which has been previously recognized by Office of Education; (4) institution offers eligible programs; (5) institution applies for eligibility; (6) Office of Education staff reviews application and grants or denies eligibility; (7) program officers review for program compliance; (8) institution is or is not permitted to participate in the program.

However, postsecondary education is not static. When there is a

need to terminate the eligibility of an institution, the weak links in the process of eligibility determination become evident.

The interrelationship of the components of institutional eligibility is complicated. The federal government relies on accrediting agencies for sanction of institutions, and on the states for legal authorizations of institutions and programs as well as for the operation of agencies to identify and approve eligible institutions for certain categories of programs. In many cases, the states exempt accredited institutions and programs from state license investigation and use accreditation to determine eligibility for state funding programs, thus relying on accreditation. State licensing boards may require that candidates for professional and occupational licensing be graduates of accredited programs. Accrediting agencies rely on the states to provide legal guidelines for the creation of its institutions and to provide the authority to grant degrees prior to accreditation. They are also dependent on the states to protect their corporate existence. Accrediting agencies also depend on the states and the federal government for public sanction, since their decisions on accreditation are adhered to by government agencies (Kaplin 1975, pp. 7-8). Institutions are both passive and active agents in the entire process, because without institutional application for chartering, accreditation, and eligibility the process would never occur. Yet, except for accreditation, institutions have a limited role in the mechanism itself.

One paradigm for ordering and understanding this process is to visualize the mechanisms for determining eligibility as arrayed in a *triad*. The three components of the triad are the states, private accrediting agencies, and the federal government. In its ideal form, the states establish minimum legal and fiscal standards, compliance with which signifies that an institution can enable a student to accomplish his objectives because the institution has the means to accomplish what it claims it will do. Federal regulations are primarily administrative in nature. Accrediting agencies provide depth to the evaluation process in a manner not present in either the state or federal government's evaluation of an institution by certifying academic standards. However, when the eligibility procedure is viewed in this manner, it is apparent that weakness in any part of the triad results in a shaky structure ("Federal Eligibility System . . ." 1975, pp. 41-42).

Even if all the elements are working together, the nature of our constitutional system of government places limits on the functions this triad can perform. The influence of the federal government on education derives from its "spending power." Thus, only through re-

quirements on the manner in which funds are expended can the government impose regulations. If no funds are expended, no regulations can be extended. The states can claim any power not restricted to them by the U.S. Constitution or their own laws. Therefore, the states have the power to regulate and police postsecondary education. However, the power of each state is limited to that state, and the commerce clause of the U.S. Constitution limits the role of states by restricting anything that might be construed as "commerce" among the states. Private accrediting agencies derive their legal "power" from the laws of the states, from their charters and from bylaws that are enforced by the compliance of members and the reliance of others on the criteria for membership (although if membership in such an association is "a virtual prerequisite" for the practice of that profession, standards must be in compliance with public policy and law) (Kaplin 1975, pp. 9-17). Thus, to visualize the eligibility relationship as a triad imbues it with a solidarity not warranted by its fragile connections.

The Peculiar Dependence

At the heart of the eligibility relationship lies the dependence of the federal government on private accrediting organizations to assess whether or not postsecondary education institutions meet qualitative criteria. Former Commissioner of Education T. H. Bell referred to the relationship as "one of the most tenuous, delicate, and complex in the curious web of authority we call Federalism" (Bell 1974a, p. 1).

For the most part, postsecondary schools and programs must be accredited to be eligible for federal assistance. The federal government recognizes those accrediting agencies whose structures and procedures conform to federal criteria. Yet the accreditation process itself is not conclusive since, in Bell's terms, it only seeks "to evaluate whether an institution is capable of delivering what it promises—not whether it intends to" (p. 3).

"Quality" is the particular component for eligibility that the federal government depends on the accreditating agencies to determine. As Peter Muirhead states in a letter to Senator Edward W. Brooke,

> With respect to the quality of training offered in an institution or its pattern of recruitment, the Federal statutes appear to contemplate that such controls as are exercised will be exercised by private accrediting agencies or otherwise through the process of accreditation. That is, if an institution is accredited, it is generally eligible for participation in Federal programs, and the accrediting process is normally carried out by private

> accrediting agencies. The role of the Commissioner of Education is essentially to approve the accrediting agencies rather than to accredit the individual institutions directly (Murihead 1974a, p. 140).

Faced with the constitutional dilemma of federal programs for education and no constitutional authority to delve into the operation of education itself, what mechanisms can administrators of federal programs rely on to indicate quality or legitimacy? Every school exists as a result of state approval. A school must have a state charter and usually must have a license. Theoretically, if a school's license were revoked, that would be a basis for the termination of eligibility. But there is no mandated communication between the states and the federal government on termination of licenses. More important, state licensing has tended to reflect the barest minimum of standards. Another mechanism in use is the state approval system used by the Veterans' Administration. Under this system, the governor of each state appoints a state approving agency to review each course to determine if it is eligible for veterans. The eligibility system again depends on the operation of an external agency—the states (National Advisory Council 1975, pp. 12-13). In this case also no communications have been mandated by this eligibility system on change in course or program status.

The reality is that for education-related programs administered by the Office of Education, accreditation has been the most important and unique element in the eligibility relationship. It is unique "because it is a process which takes place outside the jurisdiction of the Federal Government, and varies considerably in form and purpose, depending upon the organization conducting the process" (Herrell 1974, p. 40). Furthermore, it reflects the traditional independence of postsecondary institutions in the U.S. Lacking any governmental system of control, educational institutions have operated with considerable autonomy and independence. The States exercise widely varying amounts of the authority granted them by the Constitution. The accreditation process represents a non-governmental means to conduct essentially peer evaluation of educational institutions and programs. Private organizations base the accreditation process on criteria believed to identify sound educational programs, and use standard procedures to evaluate the institutions and programs "to determine whether or not they are operating at basic levels of quality" (Accreditation and Institutional Eligibility Staff, June 1975, p. 1).

Since the Office of Education, the Commissioner and the Accredita-

tion and Institutional Eligibility Staff *must* determine qualitative aspects of institutions and programs before granting eligibility, they are in the peculiar position of being dependent on the organizations that they must recognize, since there is "no practical alternative" to the use of the accrediting agencies to render eligibility to institutions for federal programs. Consequently, "OE and accrediting agencies have become interdependent; neither is free, because each has bound itself to the other; no recognized agency has declined to undergo review, and the Commissioner has declined to use alternative means of rendering schools eligible" (Orlans et al., 1974, p. 192).

Is Accreditation Equivalent to Eligibility?

While the importance of accreditation to eligibility is critical, much discussion arises because accreditation is not technically *equivalent* to eligibility. Rather, it is one of several steps, one of several judgments that must be made about an institution before eligibility can be determined (Accreditation and Eligibility Staff, January 1975, pp. 2-3). Yet, in reality, "Most institutions . . . attain eligibility for Federal funds by way of accreditation or preaccreditation by one of the accrediting bodies recognized . . . (Accreditation and Institutional Eligibility Staff, June 1975, p. 4). And the Office of General Counsel of the Office of Education, in a brief defending the use of accrediting agencies, refers to accreditation as "the primary means by which an institution may qualify for Federal funding" (Office of General Counsel 1970, p. 1).

What accreditation really means when compared to eligibility is problematic when one perceives, as the AIES does, that accrediting agencies have no control over educational institutions or programs. Their role is to establish standards and sanction those institutions or programs that meet those standards.

There are differing views about why accreditation has become such an important part of the eligibility process. Some believe that Congress gave scant attention to the technical aspects of accreditation, about which it knew little. Most accrediting agencies did not argue for the use of accrediting parlance when stating eligibility criteria. But some did, and according to Orlans and others, sections of the eligibility criteria that rely on accrediting agencies in some cases are the direct result of political calculation (Orlans et al. 1974, pp. 96-104).

Technical program requirements notwithstanding, accreditation is

the way that institutions become eligible to participate in federally-funded education programs. As these programs have grown, the demands on accreditation have shown a corresponding growth (Finn 1976, p. 25). The evaluative element of eligibility is becoming more and more important because of the increasing range of postsecondary institutions, the diversity of their activities, and the demonstrated abuses within federally funded programs, as well as complaints by educational consumers. For most of the institutions participating in programs administered by the Office of Education, the evaluative element is the accreditation process ("Federal Eligibility System . . ." 1975, p. 41). When proprietary schools became eligible, the role of postsecondary accreditation in the eligibility decision became even more critical, since the Office of Education cannot evaluate the quality of educational programs directly. This gives the accrediting agencies enormous power over the life of those institutions seeking federal funding (Orlans 1974, p. 194).

Questions about the role of accreditation in the eligibility relationship, and the larger issue of how federal aid to education funds can be responsibly dispensed, have been increasing in volume since 1952. Legislative increases in the numbers of institutions and individuals eligible for aid programs, particularly those increases written in 1965 and 1972, have accentuated the questions and issues. Nevertheless, only minor attempts have been made to deal with the underlying problem. The eligibility relationship is complex: only after legal authorization from a state, evaluation by a recognized accrediting organization, and administrative determination by the Office of Education, does an institution become eligible to participate in federal-aid-to-education programs. The federal government must depend on accreditation while, by implication, "accrediting" the accreditors. This discussion focuses on the issues in this relationship, for these will remain after interest in the consumer issue subsides. Only politically unlikely changes will alter the underlying issues, such as elimination of federal aid programs or clearer authorization for federal education offices to directly evaluate education practice.

Definitions

Throughout this discussion certain terms will be used whose meaning is not always explained. The following definitions are given for purposes of clarifying the issues.

Eligibility has two meanings within this discussion. Ordinarily, *institutional eligibility* refers to the requirements imposed by statute and regulation that schools must meet if they wish to partici-

pate in an aid-to-education program.* *Student eligibility* refers to the conditions that a student must meet to be eligible for such a program. Usually, both the student and the institution must meet eligibility requirements. A student who wishes to participate in a federal loan program must be eligible, for example, on the basis of maximum family income, and he must attend an institution that meets the institutional eligibility requirements, such as offering a four-year degree, or being accredited. Most forms of institutional eligibility rely on accreditation. The eligibility language quoted (*supra*) from the Higher Education Act of 1965 is an example of institutional eligibility requirements specified by statute.

Accreditation is the process by which an institution or program of study is evaluated and recognized by another agency or organization, usually private in nature, that certifies predetermined qualifications or standards are being met. It is usually asserted that institutions and programs voluntarily apply for accreditation. Two major types of accreditation are *regional* and *specialized* (or national). Regional accreditation considers an entire institution; specialized accreditation looks at specific departments, specialties or programs within an institution. Accreditation is granted for a limited period of time and is considered to be an indicator of quality. The organizations that grant accreditation may be *recognized* for that purpose by the U.S. Commissioner of Education, who is charged with publishing a list of those organizations so recognized.

Prior to seeking accreditation, an institution must seek a state *charter,* which establishes corporate existence for the institution under the laws of the state. The charter may or may not grant the right to award degrees. In many states a *license* is required to operate an educational institution, and such license may specify minimum standards, may regulate the use of terms such as "academy" or "college," and may authorize the granting of degrees.

Another form of recognition awarded by a state agency is *"approval,"* a term usually reserved for the state approving agencies that specify criteria for veterans' courses and determine that those criteria are met. These agencies are appointed by state governors and are under contract to the Veterans' Administration.

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* Derived from Federal Interagency Committee on Education 1974, pp. 9-12 and *Report on Institutional Eligibility* 1975, pp. 7-8.

Eligibility Issues

The mechanism by which institutions become eligible to participate in federal-aid-to-education programs has received serious study in the past several years. The reasons include the phenomenal growth of federal aid to education, as well as congressional investigations and newspaper articles that have called the public's attention to this issue. This inquiry has been stimulated also by concern with issues of consumer protection for students. A large number of issues and problems relative to eligibility and federal-aid-to-education programs have been identified. One issue relates to the basic or structural matters, and includes the generic problem of what eligibility should be. Another issue concerns the role of private voluntary accreditation because of the central function of accreditation in eligibility determinations. Many doubts about that element have been expressed. Accordingly, alternatives to accreditation have been suggested; yet many of them suffer from apparent drawbacks too. A number of issues relating to eligibility are prominent when consumer issues in education are discussed. Finally, many allegations are made that the federal role has grown and changed in character to such an extent that it threatens the traditionally independent structure of American higher education.

Any study of the basic issues of accreditation and eligibility is difficult. Orlans, who conducted a study of the relationship of accreditation and eligibility (Orlans et al. 1974) at the request of the Office of Education, found great complexity because of the difficult and interwoven technical and political problems. Many postsecondary schools and programs now eligible cannot be studied at length because of their ephemeral nature. In addition, great passion is aroused by any inquiry into the process of accrediting itself (Orlans et al. 1974, p. v). The study of accreditation and institutional eligibility is only to a small degree an educational issue; it is more a political issue, a study of how the power to distribute benefits is generated, channeled, and regulated.

One justification for examining the traditional federal reliance on private accrediting bodies and state licensing authorities stems from awareness of the expansion of federal financial assistance (for example, three million students receiving $6.4 million in 1974). Also, the range of institutions eligible for programs administered by the Office of

Education is very broad. In 1974, then Acting Deputy Commissioner for Postsecondary Education, S. W. Herrell (1974, p. 39) reported that 8,300 institutions were eligible to participate in the guaranteed student loan program. He noted that whereas there was considerable publicity about unethical practices by eligible proprietary schools, there was evidence of similar problems with nonprofit institutions as well (p. 36).

The system of regulation appears confused and over-burdened when examined closely: "Interlaced networks of approving bodies with conflicting authorities and self-interests are scrambling for the right (or to avoid the responsibility) to exercise various degrees and kinds of sanction and surveillance over several varieties of post-secondary institutions and programs" (*Report . . . 1975*, p. 1). If objectives of the system for determining eligibility for federal funding are that it "encourages diversity, operates honestly and effectively, and is reasonably simple to administer," then the problem is how to do this effectively with "battalions of inspectors" or federal control of education. While Arnstein suggests that the major defects are a lack of disclosure (of information about what schools can really do), a lack of effective laws, a lack of coordination between components of the eligibility system, and a lack of research that would lead to improved methods for use by those components actively involved (Arnstein 1975, p. 396), some of the confusion can be traced to underlying structural problems.

Basic and Structural Issues

The heart of the complicated issue of deciding which institutions are eligible for federal aid to education programs is that in the United States, by choice, there is no one agency that supervises, rates, or controls higher education and postsecondary institutions. It is unlikely that this problem will be resolved. Without a central focus of responsibility and evaluation, the assignment of federal largesse to elements of a complicated system, which combines publicly supported institutions with private for-profit and nonprofit institutions, will always cause problems. The proxy for a central evaluation authority is accreditation, which is believed to be "the best available method of ascertaining the general standing or quality of an institution of higher education in the United States. . . ." (Accreditation and Institutional Eligibility Staff, no date, p. 1).

While accreditation may be relied on in lieu of a central authority, the question remains, What are the responsibilities for education assigned to the states and the federal government in terms of constitu-

tional authority? Although education is constitutionally a responsibility of the states, the federal government is influencing more aspects of education than in the past. Also, the states have played a minimal role in determining which institutions shall be eligible for federal funds (*Report . . .* 1975, pp. 2, 9).

The Office of Education, by statute assigned the responsibility to determine eligibility, is caught in a crossfire between four points of view. One, the institutional point of view, finds the thought of greater federal control to be an abomination. Autonomy of institutional governance is of paramount importance. No matter how eligibility is determined, no loss of autonomy can be tolerated. A second point of view, the congressional, expects the Office of Education to function as a policeman and respond strongly when programs are abused. A third point of view, that of the public, looks at students as the unwitting victims of institutional misbehavior that should be subject to a stronger federal response. Holders of this viewpoint increased when profitmaking institutions became eligible. Finally, from a legal viewpoint, the Office of Education supports institutional autonomy and self-regulation within the dictates of state law while acknowledging that the General Education Provisions Act prohibits any interference by a federal employee in the internal affairs of an educational institution (Bell 1975, p. 7).

Many current questions and issues relative to the federal role must be related to the restrictions of Section 422 of the General Education Provisions Act, which reads:

> No provisions shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment of transportation of students or teachers in order to overcome racial imbalance (Federal Interagency Committee on Education 1974, p. 40).

Bringing reality to the underlying constitutional issues are the dilemmas of the present accreditation and institutional eligibility situation: Who shall get the federal dollar? How shall the eligibility of institutions and students be determined? How can fraudulent practices be prevented and the student consumer protected? By what strategy or mechanism can all the legitimate interests of students, the federal government, and the public be served with federal money and without undue federal intervention (*Report . . .* 1975, p. 3)?

What Institutions Shall Benefit?

Within the changing world of postsecondary education new types of institutions are now eligible by statute for federal aid to education programs. Should special eligibility provisions be applied to proprietary schools? to innovative institutions? Are there large numbers of institutions that are actually ineligible because there are no accrediting organizations for them (Conference Issue Paper 1975, p. 32)? The Office of Education also has to reckon with the determination of eligibility for new forms of education, such as open universities, external degrees, branch campuses, foreign campuses, library-based organizations, combinations of institutions through consortia, small free-standing and special purpose institutions, and programs of part-time and continuing study (Muirhead 1974b, p. 134). If traditional accrediting mechanisms are not applied to theese forms, how can they be dealt with?

The question remains, What should eligibility be? Are the elements considered by the Office of Education in determining eligibility sufficient? Is the evaluative component necessary or valuable (Bell 1975, p. 7)? These and other questions on the eligibility system, and the role of accreditation and state agencies in determining eligibility, have been under review for some time by the Office of Education Accreditation and Institutional Eligibility Staff (OEAIE, January 1975, p. 1). The review itself has been accelerated by allegations of consumer abuse within eligible institutions and resultant congressional investigations. In addition to investigations and reports, the Office has sponsored national conferences to discuss the issues (OEAIE, February 1975).

Basic notions concerning eligibility and the federal government begin with the question, What end does the federal government hope to achieve by means of an eligibility determination? What does it need to know to make that determination? Would specific program requirements protect the federal interest better than the general eligibility determinations are protecting that interest now (Kaplin 1975, p. 24)? Questions about the federal purpose in determining eligibility lead to issues, such as whether there should be a relationship between eligibility requirements and federal responsibilities for promoting access, choice, and opportunity for higher education (*Report* . . . 1975, p. 9). For example, if the national goal of extending access to postsecondary education is to be achieved, more diverse and flexible opportunities must be provided. This will require the modification of eligibility and accreditation procedures. In so doing,

institutional autonomy will have to be preserved and the interest of educational consumers protected (Muirhead 1974b, p. 139).

What judgments should be involved in the actual determination of eligibility itself? It will have to be determined if it is rational or proper for eligibility determinations to require: proper chartering by the federal or state government; compliance with federal program requirements; compliance with federal and state laws; and some demonstration that quality standards have been met (the role usually assigned to nongovernmental, private accrediting) (Young, May 1976, p. 2). It is asserted that eligibility determinations must include a private role to avoid the "dangers" of a system exclusively dependent on governmental approval. Is this correct, or necessary? The Office of Education considers factual information, qualitative assessments, and special program requirements before eligibility is determined. Are these factors sufficient to meet the needs of institutions, programs, students, and the funding initiatives of the federal government? How important should the evaluative or quality-assessment component be when determining eligibility (Bell 1975, p. 7)?

As important as questions regarding the nature and method of ascertaining eligibility are, complaints about the miscellany of federal regulations institutions must contend with to be eligible have resulted in the proposal that the Office of Education develop a universal set of eligibility requirements that would apply to all programs. Would a "terms of agreement" document, completed once by an institution, and making it eligible for all programs, be an answer to these complaints ("Conference Issue Paper," 1975, p. 32)? If a universal set of eligibility requirements is developed by the Office of Education, should it include requirements for the public disclosure of student attrition and completion rates? Should it include requirements that tuition refunds be fair and equitable? Should it include the stipulation that deceptive or misleading advertising and sales practices be prohibited? Should vocational schools be required to disclose placement data for graduates? Each subissue pertaining to eligibility reflects a broader concern with the federal purpose and role in postsecondary education.

The System for Determining Eligibility

Once questions dealing with the purpose of eligibility are dealt with, one can turn to questions about the system for determining eligibility, which is often referred to as the *eligibility triad*: *States* charter and license institutions; *accrediting agencies* evaluate them for quality; the *federal government* recognizes the accrediting agencies,

considers basic factual data, and rules on the eligibility of an institution.

An important issue is the quality of the relationships within the triad. To what extent can the elements of the triad rely on each other? If the state and federal governments depend on private accreditation to an excessive degree, do they exceed their authority to delegate responsibility? If private accrediting commissions and agencies accept too much responsibility for government action, do their activities become subject to "state action" doctrine (Kaplin 1975, p. 17)?

Federal Reliance on Accreditation

The dependence of the Office of Education on accrediting organizations is an essential part of the triad. Accreditation is written into legislation as a quality control measure to insure that the government's money is well spent, and to provide some assurance to students that educational programs are worthwhile. However, accrediting agencies are private, independent, and voluntary agencies, and their objectives may not coincide with the objectives behind a federal-aid-to-education program.

The purpose of accrediting agencies traditionally has been the stimulation of institutional and program improvement by peer review. "They do not view themselves, nor do they function, as regulatory bodies. They have no legal authority to require compliance; they work instead by persuasion to maintain understanding and acceptance of their role and function by their constitutents and the general public" (Muirhead 1974b, p. 130). If the Office of Education should lean even more heavily on accrediting agencies, it will have to accept the fact that they are often staffed by volunteers, underfinanced, and vulnerable to litigation.

Due to the wording of the eligibility statutes, the Office of Education must rely on the products of accrediting agency work—the lists of institutions that are accredited—to determine eligibility.

> But recognizing the vast sums of Federal money which ultimately flow through reliance upon the accrediting mechanism . . . the Office has deemed it only prudent to establish, and gradually intensify, Federal oversight of the operations of those accrediting agencies recognized by the Commissioner. One of the pressing questions right now is just how far this oversight can and should go in order to achieve realistic assurance that both the student's education rights and the taxpayer's dollars are protected while, at the same time, avoiding unwarranted Federal intrusion into the educational process (Muirhead 1974b, p. 133).

Is it proper for the federal government to make use of private voluntary associations when making a funding decision?

> Few non-accredited institutions are eligible and few accredited institutions are ineligible. The accrediting associations were not created for the determination of Federal eligibility, they did not ask for this function, and most of them do not want it, nor can they handle it. When the Federal government began use of this procedure, very little hinged on the eligibility decision. Now it is a major decision, and it is time to ask whether some other method would be more proper (*Report . . .* 1975, p. 9).

The federal reliance on the accrediting process has grown over the years more by accretion than from mandate by Congress. As a consequence, enormous responsibility has been placed in the hands of private groups. The question must also be asked, "should that responsibility be so placed" (Pell 1974, p. 1)? The increased use of accreditation by Congress in the process of establishing eligibility for federal funds only emphasizes the question of whether it is appropriate for Congress to delegate this authority and what the proper role of the Office of Education is, particularly if, in the opinion of Harcleroad and Dickey (1974, p. 8), a "persistent question" remains of whether accreditation impedes change or whether it stimulates new practice.

Assuming the Office of Education continues to use accreditation in the determination of eligibility for institutions, Should more than one accrediting organization be recognized for a geographic region? Should more than one accrediting organization be recognized within a program field or special area? In other words, would more competition within accreditation be helpful? Would it be helpful to have alternative paths to eligibility (other than accreditation) such as Orlans suggests, i.e., a committee to recognize "useful" schools and programs (Conference Issue Paper 1975, p. 32)? On the subject of general eligibility, should accreditation be a necessary prerequisite, an alternative route, one of many elements to be considered, or not a consideration at all? Finally, how should the answers to these questions vary with the type of aid under consideration (institutional or student aid) or with the type of institution or program being evaluated (like nonprofit as opposed to propietary institutions) (Kaplin 1975, p. 25)?

Finn (1976) argues that accreditation was chosen by the government to finesse the enormous problem of determining which institutions should receive federal money. This procedure was one of several, where higher education had "extraordinary freedom to make decisions on behalf of the government" (p. 24). As the federal program grew, the demands on that mechanism increased. Although efforts by the Office of Education to increase the regulations of accreditation have been met unfavorably, serious questions are now being raised as to

whether accrediting protects students from malpractice by institutions. Recently changes have been made that place more emphasis on agreements between institutions and the government for this type of protection (p. 24), but criticisms remain about the inefficacy of accreditation in this regard. Perhaps accrediting organizations never accepted the task of "protecting" students with much enthusiasm. Nor did they change rapidly enough to keep up with the metamorphic nature of postsecondary education (p. 26). Nevertheless, Finn argues that if the private accreditation system cannot find ways to improve regulation, the government will. And that raises the prospect of increasing dependence on the government by increasing numbers of institutions. Finn suggests that this is an instance where the academy should have realized that its acceptance of responsibliity to self-regulate through accreditation was "a revocable public trust" that required positive change to be maintained (p. 63).

Finn's interpretation can only lend support to fundamental questions about accreditation: Should accrediting agencies be considered reliable authorities regarding educational quality or institutional probity? Is it wise to consider dropping accreditation entirely from the eligibility determination (Conference Issue Paper 1975, p. 32)?

Another issue of a constitutional nature is whether by using accrediting organizations in the eligibility determination Congress is requiring a federal official to follow the recommendations of a private body while carrying out public activities. This could be construed as an illegal delegation of the power to make law, a violation of Article I of the Constitution. In a discussion of this issue, the Office of General Counsel of the Department of Health, Education and Welfare has argued that the courts have been reluctant to declare similar practices unconstitutional, unless there is evidence of arbitrary or abusive practice. It is the Counsel's argument that the review procedures for recognition of accrediting organizations are an adequate safeguard against such charges. Furthermore, since accrediting organizations are regarded as indicators of educational quality, without regard to their role in determining eligibility, the federal statutes simply recognize the existing standards and established system (Office of General Counsel 1970, pp. 1-3).

One argument made in favor of accreditation arises from its voluntary nature. However the question has been publicly asked whether accreditation is really voluntary and whether accreditation is really sought for educational excellence or primarily for federal dollars (Clark 1975, p. 19).

Numerous articles about fraud and the need for consumer pro-

tection in education have also raised questions about the value of accreditation. In this regard, it must be remembered that the primary constituents of all accrediting organizations are institutions and departments. Thus, in the judgment of Orlans and colleagues (1974) accreditation is not policing or monitoring or enforcement of standards after an overall judgment has been made. Neither the interests of students nor the government are foremost in the concerns of accrediting agencies. From the consumer protection standpoint then,

> Accreditation is a reliable indicator neither of institutional integrity nor viability. Accrediting agencies are concerned about financial stability, but this can be difficult to diagnose, and both accredited nonprofit and for profit institutions have collapsed (Orlans et al. 1974, p. 465).

If the use of accreditation does not mean that a federal dollar is well spent, the question must again be raised whether the government should, in effect, require private citizens to be dependent on another private agency to receive public money (p. 481).

Accrediting agencies have been charged with avoiding action on the matter of public accountability. Orlans and colleagues assert that "Most accrediting agencies disclose little more than their formal standards and the names of accredited institutions—not the names of those which were denied accreditation, disaccredited, put on probation, found in noncompliance with designated standards, or which have never applied for accreditation" (Orlans et al. 1974, pp. 24-25). In their view, if accrediting agencies were more concerned with being publicly accountable, they would publish this type of information.

The Practice of Accreditation

Several of the issues associated with eligibility are directly concerned with the practice and organizations of accreditation. Yet the point of view of many in the accrediting community is reflected in Young's opinion that within the present system nongovernmental accrediting is the most effective mechanism in use to evaluate educational quality, and this is performed at no cost to federal or state governments. Accrediting personnel believe that their role and value to postsecondary education existed long before its use in federal funding decisions, and will continue to exist should its use for that purpose cease (Young, May 1976, p. 5).

The type of judgments made by accrediting agencies are themselves difficult to make.

> Statements about the differential quality of educational institutions are inherently subjective or social judgments, and the tests and indicia which purport to measure quality objectively merely represent subjective judgments, once removed, of what the objective signs of "quality" are. Such judgments can safely and rightly be made only by private citizens (Orlans et al. 1974, p. 3).

At the same time, Orlans and colleagues have charged that regional accreditation does not make distinctions in quality. This statement is premised on the observation that there are relatively few eligible institutions that are not regionally accredited (p. 5). Institutional accreditation is also charged with being little relevant to the actual education a student will receive, being "redundant" for most degree-granting schools (i.e., most have it; it does not discriminate among institutions), and being especially unsatisfactory within the world of proprietary schools (pp. 6-7).

In view of the constitutional and legal background, accrediting organizations continue to face the implications of being involved indirectly in a governmental decision process. While they are normally not subject to constitutional constraints as private organizations, "they may become subject to these constraints when they act as agents or delegates of government and thus lose their purely private character" (Kaplin 1975, p. 20). This might occur if courts found a particular degree of compatibility between their actions and actions of the government. One result would be the imposition of constitutional due-process requirements on their decision-making paths. "Due process would basically require that accrediting agencies utilize fair procedures which afford institutions and programs a reasonable opportunity to defend themselves against adverse accrediting decisions and that accrediting decisions not be arbitrary, irrational, or capricious" (pp. 20-21).

The extent to which accrediting agencies should be involved in carrying out federal mandates, such as those requiring affirmative action programs for women, opening up institutions to black students, etc., has also been a matter of concern. In response to Congressional questioning on that issue, John Proffitt, administrator of the Office of Education's AIES, replied that the responsibility rested with the government, and that it was not the role of the accrediting agencies to enforce federal statues; however, he continued, "We take the position that accrediting agencies should concern themselves with the matter of discrimination within the context that it may adversely affect the quality of education" (In Herrell 1974, p. 111).

The shift of federal aid to education from institutions to in-

dividuals, and to individuals within a much broader range of institutions, has intensified the eligibility issue. At the same time, new federal laws that are in play threaten the use of accrediting agencies in determining eligibility. Accrediting agencies may enjoy extra authority from their use in determining federal eligibility, but they are not prepared, nor do they desire to serve as enforcers of federal laws. Under present regulations, the AIES has done all it can legally do to bring accrediting organizations into line as enforcers, if, indeed, that should be done at all (*Report . . .* 1975, p. 2).

Recognition and Oversight of Accreditation

The major question faced by the federal officials with respect to the use of accrediting within the eligibility decisions is how far can and should the oversight of accrediting organizations be extended? This dilemma was identified by Muirhead (1974b), who stated, "The relevant statutes speak only to the Federal reliance on the *outputs* of the accrediting agencies for eligibility purposes, and these outputs are the lists of accredited institutions or programs maintained by every accrediting body" (p. 133). Yet reasonable concern for the taxpayer's money and the student's educational rights argue for an extension of oversight on behalf of federal officials. As noted earlier, Muirhead believes that while accreditation has been written into the legislation as a quality control device, accrediting agencies "are private, independent, voluntary agencies having discrete, albeit laudable, purposes which do not always coincide neatly with the objectives inherent in federal aid to education" (p. 129). Furthermore, accrediting agencies work without legal powers to require compliance.

The extent to which the government should have a role in overseeing the operations or policies of accrediting organizations is an issue that tends to raise the ire of those associated with higher education. For example, in March of 1976, the board chairmen at public and private colleges and universities were polled. With response from 404 individuals, the great majority (over 90 percent) did not believe that accrediting organizations had interfered with the policies of their institutions. But some 70 percent responded that the federal governmen does not have an appropriate role in overseeing the policies of voluntary, institutional accrediting organizations ("Results of AGB's Fourth Annual Poll of Board Chairmen" 1976, p. 4).

If accrediting agencies recognized by the Office of Education are to be used to evaluate the quality of an educational program for eligibility purposes, two important questions are raised by that relationship: First, What is educational quality? Accrediting organizations

need to validate those conditions usually considered indicators of quality and, once they are determined, to increase the amount of evidence needed to label a program "quality" (Young, November 1975, p. 7). However, the Office of Education should follow the same steps in recognizing accrediting organizations. The second question is, What level of quality should be acceptable for an institution to be eligible? The statutory language is usually minimal, suggesting only those limitations that pertain to program purposes. On the other hand, a statement that is too specific about what quality represents suggests the possibility of a nationwide standard determined by a ministry of education.

The dependence on the use of accreditation to determine eligibility has resulted in the charge that the Office of Education review of accrediting agency recognition is a charade. With the absence of alternative paths for deserving schools to secure eligibility, the withdrawal of agency recognition would mean that otherwise eligible schools would no longer be eligible (Orlans et al. 1974, p. 7). Orlans and associates recommend that the monopoly held by accrediting agencies should therefore be broken, and that alternative means should be developed to yield eligibility (p. 8). Another idea is that a private organization, such as the Council on Postsecondary Accreditation, could assume the recognition function now held by the Commissioner's Advisory Committee. Under this arrangement the Commissioner's Committee would serve as an appellate body. Would this be practical, legal, or desirable? What advantage or disadvantage might it have (Conference Issue Paper 1975, p. 32)?

From the viewpoint of the accrediting representatives the role of their organizations is misunderstood. They understand it to be simply the participation of an institution's peers in a judgment regarding the educational quality of that institution, using preestablished criteria. If accreditation is to be used by Congress for eligibility determination, then the current means of determining eligibility should remain as is. Accreditation is only one of several elements that comprise the eligibility definition; the states, too, have a responsibility. There is also the responsibility of program administrators to determine if the purposes of federal programs are being fulfilled. Cessation of any eligibility element ought to result in the immediate end of eligibility; authority to do that is held by the Commissioner but it is unused (Fulton and Hart 1974, pp. 304-305, 312, 314).

Alternatives to Accreditation

Many improvements and alternatives to the use of accreditation

within the present system of determining eligibility are proposed. A major emphasis of suggestions pertains to the role of the states. Ken Young of COPA, representing the point of view of that association of private accrediting organizations, suggests that the first priority in improving the eligibility system should be to bring every state to a desirable level of performance in their responsibilities of chartering and licensing. He argues that if the states were effective, many of the problems associated with eligibility would be eliminated (Young, May 1976, p. 2).

Should the Office of Education increase the role the state agencies play in the determination of eligibility? If this is achieved, what effect will it have on the regional and national accrediting organizations? Should state agencies that charter, approve, and license educational institutions also be recognized as the accrediting agencies are (Conference Issue Paper 1975, p. 32)?

Within most federal-aid-to-education statutes, the basic eligibility triad process is assumed to represent a system of national oversight for postsecondary education (Grants and Procurement Management Division 1976, p. 1). In practice, an interpretation that equates accreditation with eligibility is common; however, this interpretation ignores the coequal statutory responsibility of the states to effectively charter, license, and regulate postsecondary institutions. Two qualitative judgments are required; one by the private accrediting agencies, and one by the state agency. However, there appears to be a problem, in that most state approval agencies lack stringent legislative authority and have limited staff to assess, approve, and monitor the operations of postsecondary institutions (p. 2). The consequence is a dysfunction in the eligibility process. This problem is itself exacerbated by the lack of information on the performance of those state agencies and the criteria they employ.

One of the possible means to improve the current eligibility system by using improved state action lies within the Education Amendments of 1972, and is referred to as the Mondale amendment. This section of the amendments was inserted into the legislation by Senator Mondale because many of the vocational institutions in his state remained unaccredited. Consequently, students were ineligible for numerous benefits. Under the terms of the Mondale amendment, public postsecondary vocational institutions approved by recognized state agencies are directly eligible for federal student aid.

However, a problem arises under the Mondale amendment because the importance of the private accrediting associations would be decreased and far more responsibility would reside with state officials

in determining eligibility. The assertion is also made by Orlans and colleagues (1974, p. 104) that the original wording of the amendment —which would have permitted recognized state agencies to determine the eligibility of *private* as well as public postsecondary vocational institutions—was changed as a result of lobbying by representatives of private accrediting organizations. Thus, while the Mondale amendment suggests a possible direction for enhancement of the state role in eligibility determination, it is also an issue among the parties that determine eligibility.

Another question is whether there should be an institutional alternative to accreditation, that is, some method to protect those institutions that rightfully seek federal funds without desiring accreditation. Should an alternative to the "three-letter rule" be available to nondegree-granting institutions? (Under the three-letter rule, an institution is treated as if accredited for purposes of eligibility determination if letters are on file from three accredited institutions, which establishes that the accredited institutions accept credits from the unaccredited institutions as equal to those from other accredited institutions.) This three-institutional certification system, or three-letter rule, has "in the opinion of USOE administrators, been subjected to considerable abuse" (Conference Issue Paper 1975, p. 32)?

Eligibility and Educational Consumer Protection

One reason for the flurry of interest in eligibility and accreditation is the relationship the topic bears to the problem of consumer protection in education. These topics are definitely related in the public mind, but as the substance of this report indicates, there is no necessary connection between the two—the eligibility issue is a far more basic matter than consumer protection.

Nevertheless, the problem of educational consumer abuse is definitely spurring action to improve knowledge about the eligibility determination process. For example, a proposal for research on the state oversight process is justified, in part, by the need for action against educational consumer abuses that take place at the expense of participants in federal student assistance programs (Grants and Procurement Management Division 1976, p. 1).

What is the federal responsibility to provide consumer protection in postsecondary education? Most of the funds that eligible institutions receive are earmarked for students. These funds are appropriated for a national purpose, such as the promotion of access to postsecondary education. Therefore, a federal responsibility for the protection of users of such aid is implicit (*Report . . .* 1975, p. 9). From

the standpoint of the Office of Education, which administers federal-aid-to-education measures, the question is Where do abuses affecting consumers of education intersect with the process of eligibility determination? Also, What should the Office of Education expect from the states and from the accrediting bodies in addressing the needs of consumer protection (Bell 1975, p. 8)?

Two types of abuse that involve students and federal money are commonly reported, and have been the subject of inquiry for federal committees assigned to investigate the government's role in educational consumer protection. The first has to do with programs that deliver instruction different from what the student and funding organizations expect. The second pertains to "the use of educational funding programs for meretricious rather than education purposes, whether through meaningless enrollment, non-attendance, default or misleading applications" (Federal Interagency Committee on Education 1974, p. 7). An example of the latter would be those instances where students are induced to enroll and borrow funds through the use of federally insured loan plans; then the student or the institution uses the money for other than educational purposes.

The broad implications of this problem are clear when it is realized that most students have been subject to the *holder in due course* doctrine, whereby a purchaser who signs a note (e.g., to pay for future educational training) is responsible for the repayment of the loan (which has been sold to a financing institution), even if what the purchaser paid for is not delivered, is defective, or is not as represented when sold. Instances are recorded where students with federally insured loans have been forced to repay their loans even though the once-eligible institution where they enrolled later collapsed (p. 15).

The consumer protection aspect in institutional eligibility has also been spurred by several newspaper series on practices in vocational school. One series, in particular, prompted a response from numerous agencies. In March 1974, the *Boston Globe* ran several articles alleging educational malpractice on the part of selected proprietary-vocational schools in the Boston region. The Office of Education investigated because several of the schools were eligible to participate in federal-aid programs and were accredited by recognized accrediting agencies (Accreditation Policy Unit, 1975, pp. [1-4]). Twelve of the twenty-one schools in the series were nationally accredited. Most of the criticism focused on misconduct by salesmen, although poor facilities, irresponsible management, high dropout rates, and low placement results were also alleged. Broader charges in that series

included the allegation that proprietary schools were not effectively regulated in Massachusetts, that the federal government was failing to regulate the quality of education offered by career schools eligible for federal aid programs, and that national accrediting was weak in its initial investigation and policing of accredited schools.

In general, the rise of interest in consumer protection for students is warranted by the large investment in money, time, and labor it causes. Recent discussions emphasize the changes institutions will have to make so that students, armed with accurate information about prospective institutions, can decide wisely about what institution to attend (Shulman 1976, p. 1). The initial emphasis is on providing information that will enable a student to make a correct choice of institution; and second on providing consumer protection information —on tuition and financial policies, for example, and on whether the school can deliver what it promises. This latter need is emphasized by problems of abuse in federally insured loans and by the number of instances where students have sued institutions alleging nondelivery of promised services or unfair policy changes after enrollment. Federal officials have become involved in the student consumer issue because of the involvement of federally administered programs. Consequently, the eligibility system itself is directly implicated, particularly accreditation. Shulman writes, "For the student consumer, the central issue is whether the accrediting process assures the student of a satisfactory educational experience in terms of program quality and institutional integrity" (p. 3). Criticisms of the accrediting process within the eligibility system are directed, in particular, at the failure of accrediting organizations to make public their findings or to explain the basis for their findings.

Common malpractices found in a small number of schools of all types include: Misleading and inaccurate advertising; indiscriminate and overly aggressive recruiting; lack of full disclosure of important characteristics of the institution or of other information needed by the student consumer; inferior facilities, course offerings, and staff; false promises for job placement and potential career earning opportunities; unfair refund policies or failure to practice refund policies as promised (Bell 1974b, p. 1). The probability that one of these abuses will occur increases when one or more of the eligibility elements in the present system is absent or defective (p. 4). The discovery that educational consumer issues are related to the eligibility process has resulted in the charge that the termination of eligibility procedure is too often paralyzed. In the judgment of Helliwell and Jung, for example, parties involved in eligibility determinations tend

to focus more on eligibility determination than on limitation and suspension mechanism and decisions:

> The entire area of monitoring, enforcement, and termination, without which there can be no serious redress or regulatory intervention on behalf of consumers, is characterized by buck passing. Recently cases of blatant and self-admitted consumer abuse and fraud have been allowed to persist for months because no single party in the "tripartite" regulatory system was able (or willing?) to step in and suspend the operation of the schools concerned. Regulatory approaches are further threatened by a growing and politically powerful national reaction against sprawling and insensitive governmental guidelines, reporting requirements, and red tape (Helliwell and Jung 1975, p. 56).

In fact, the need for student consumer protection is not accepted by all parties within the eligibility discussion with equal vigor. Thus, the COPA newsletter of February 1976 featured an unsigned article titled "Student Consumer Protection is New Catchphrase" (1976). The writer of this article argues that the assumptions on which a move toward consumer protection is based need to be examined, including the assertions that consumers need or want to be protected, or that the federal government should provide any protection to them. The charge is delivered that in too many instances students are coconspirators. The article warns that it is important to remember that the federal interest really is in federal dollars, not students ("'Student Consumer Protection' Is New Catchphrase," 1976, pp. 1, 4).

One response to allegations of federal inaction on consumer abuse issues related to federally aided educational programs is that these programs were traditionally conducted by nonprofit institutions. Consequently, few federal agencies were set up with mechanisms to handle complaints of the type that have arisen. Only recently has it become necessary to worry about consumer protection in education (Federal Interagency Committee 1974, p. 17). On the other hand, when the Office of Education has moved to tighten eligibility restrictions and procedures for recognition of accrediting organizations, the desire to provide greater protection for educational consumers has clashed with the concern of educators (including those in accreditation agencies) over federal interference in education (Semas 1975, p. 1).

Finn attributes concern with consumer protection issues to what he alleges is a reconsideration of the federal relationship to higher education. When institutions eligible for the Guaranteed Student Loan program collapsed, questions arose about whether their accreditation was based on adequate standards; complaints about educational fraud

also raised doubts about the efficacy of accreditation (Finn 1976, p. 25). The Office of Education finally promulgated regulations that gave the Commissioner the authority to make institutions ineligible if those institutions violated "federal standards of behavior." An agreement had to be negotiated with the Office of Education, including consumer protection provisions, accounting requirements, and provisions that forbade excessive dependence on federal loan programs as a source of income. But the question remains, How did it take so long for these standards to evolve (Finn 1976, p. 26)?

Another problem regarding the consumer protection issue in relation to eligibility is that there is little empirically determined evidence on the real extent of consumer abuse in education (Helliwell and Jung 1975, p. 56). Furthermore, education may not be susceptible to the protection devices that are working with other commodities. In this regard, consumer protection strategies designed to provide more information to the potential consumer of education may simply be dangerous (p. 57). For example, educational consumers and taxpayers tend to assume that the federal government will be investing funds wisely; therefore, an institution that is eligible has been evaluated as having met minimal quality levels. However, the Office of Education stresses that this is not the case; there is no such assurance arising from eligibility. Still, students expect that eligible institutions will help them meet education goals, that the faculty is qualified, and the educational program of the school is up-to-date.

To assist student choice and decision-making, another controversial suggestion has been made that institutions desiring to be eligible should be required to make a public disclosure of the student attrition and completion rates, have a fair and equitable tuition refund policy, and make public disclosure of job placement data (if a vocational school). Whether these policies should be examined or required by accrediting organizations as part of the accreditation examination is another issue (*Conference Issue Paper* 1975, p. 84).

"The Growing Federal Threat"

A major portion of the rhetoric associated with discussions of the eligibility system and accreditation concerns charges that the role of the federal government is swelling beyond its legitimate interests, and that the growing federal role in education threatens the traditional constitutional role of the federal government in education. Recent attempts by the AIES to strengthen eligibility statutes and recognition procedures have only amplified the outcry.

There is much criticism of a threatened extension of federal au-

thority over accrediting and this accompanies the charge that the federal presence has insinuated itself into the domain of higher education. Young argues that the federal presence in postsecondary education has systematically increased, begining first with money for facilities, then for categorical programs, and then for massive aid to students. He charges that federal aid programs are really designed to achieve social objectives rather than to assist postsecondary education. Furthermore, despite the relatively small amount of money the federal government contributes to postsecondary education, it is trying to exercise "extensive control" over postsecondary education. In addition, through programs such as OSHA and Title IX, the government has applied increasing regulatory oversight (Young, March 1976, p. 1).

In seeking to control the flow of federal money to institutions, Congress could have chosen three other options—a federal ministry; a state ministry; a federal-state combination—besides the system in use, which relies on private voluntary accrediting. In Young's view, the growth of problems is ironic, since the federal government determines student eligibility, determines institutional eligibility, and determines accrediting association "eligibility" by means of the recognition process.

Another issue that continues to surface is whether the nature of the relationship between the federal government and the accrediting organizations has changed within recent years. Robert Kirkwood, who served as Executive Director of the Federation of Regional Accrediting Commissions, a precursor to COPA, testified before a Senate Subcommittee on Education in September 1974 that there had been a discernible change in the relationship between the Office of Education and the accrediting agencies. This change occurred after years of passive but cooperative relationships between the two. Kirkwood also stresses that the role for accreditation written into eligibility language was done without consulting the regional accrediting commissions. He asserts that there is evidence that some federal officials would like to "co-opt" the accrediting agencies, making them enforcement arms of the federal government. This, he charges, would put the federal government in charge of the accrediting process and eventually in control of postsecondary education (Kirkwood 1974, pp. 246-248). However, Kirkwood visualizes the federal incursion into accreditation as just one part of the government's inroad. "The number and variety of governmental agencies already demanding conformity to certain practices or imposing their will on postsecondary educational institutions is profoundly disturbing" (p. 249). Kirkwood urges the Congress to find alternative mechanisms to the reliance on

accreditation for the determination of eligibility, since excessive reliance on accreditation for eligibility purposes, in his view, is threatening the character of accreditation itself. The legitimacy of a congressional move to protect the public interest cannot be disputed. But this is different from the extension of regulatory authority by an executive agency:

> . . . the Office of Education has been laying down all sorts of strictures about what the accrediting agencies shall do, and what is expected of them in the criteria, (sic) there are no similar strictures or guidelines as to what we can expect in terms of the behavior of the Accreditation and Institutional Eligibility Staff (Kirkwood in Dickey and Kirkwood 1974, p. 232).

Another good question among those pertaining to the federal role is what the function of the Commissioner's advisory committee should be. Since 1968, the functions of that committee have expanded with growth in the role of the Office of Education and the need for eligibility-related decisions (Bell 1975, p. 8). Bell has argued that the functions of the committee should be specified by statute. Among the recent measures to improve the process of eligibility determination is the proposal that a National Advisory Committee on Accreditation and Institutional Eligibility be created. The proposal for the committee has evoked criticism from organizations involved in accreditation, such as COPA. Young, arguing on behalf of COPA, maintains that because of its proposed permanent status the committee would have decreasing value for the AIES. In addition, he objects to the functions the committee would perform. The present committee is advisory in character, but the proposed committee would be granted power to recommend accreditation of institutions. Additional questions raised by Young include the issue of whether the proposed committee would not violate U.S. code regulations against federal control of education, pointing out that no safeguards were provided "against arbitrariness and abuse of discretion in the exercise of this accrediting authority" (Young, December 1975, p. 2). In addition, Young questions whether this committee would not duplicate the efforts of private accrediting associations. In Young's opinion, the powers proposed for this committee, even with safeguards, would be in violation of the Constitution. "The expansion of the Office of Education's power to control education through the accrediting function of its permanent advisory committee would represent an unwarranted intrusion upon the Constitutional rights of the States and the American educational community" (Young, December 1975, p. 2).

Another section of the proposed eligibility language would require accrediting organizations to obtain assurances of ethical practice from the institutions they accredit. Young argues that since no precise ethical standards are specified in the legislation, the standards would be those of the administrators of the Office of Education who decide on the recognition of accrediting agencies (Young, December 1975, p. 3). The reaction of COPA, voiced by Young, to the proposed legislation is critical. "The proposed legislation represents major changes in the authority and role of the federal government with respect to institutions of postsecondary education and their accrediting associations" (Young, March 1976, p. 2). Young warns that it is imperative that the government assure that the AIES supports private accreditation and that this must be followed up by government action in support of that sentiment or "there may come a time when we no longer have nongovernmental accreditation or independent institutions of postsecondary education" (p. 2).

Charles Saunders, Director of the Office of Governmental Relations, American Council on Education, also reacted to the proposed legislation changing the eligibility provisions of Higher Education Act of 1965. His concern with the proposed legislation was that it be changed to make clear that "the Commissioner of Education will under no circumstances exercise control over standards of educational quality, which have been and must continue to remain the prerogative of the higher education community, acting voluntarily though its nongovernmental accrediting organizations" (Saunders 1975, p. 1). Changes suggested by Saunders for the proposed eligibility legislation would (1) eliminate the proposed authority of the Commissioner to prescribe the methods used for recordkeeping by institutions and (2) would clarify that only institutions that make claims about placement of graduates be required to keep such records. In addition, Saunders proposes that equitable tuition refund policies must apply both to the institution and the student. In addition to these suggestions, Saunders joined others in arguing that the proposed National Advisory Committee be named the National Advisory Committee on Institutional Eligibility, to make it clear "that the Commissioner of Education has no authority over the accreditation process" (p. 2). Saunders also would limit the emergency authority to grant eligibility for a one-year period and eliminate the references to ethical practice requirements in the proposed legislation. Although Saunders signed the letter as a representative of the American Council on Education, the letter was drafted with the cooperation of a wide spectrum of higher education organizations, such as the American Association of Com-

munity and Junior Colleges, Association of American Colleges, National Catholic Education Association, Association of Governing Boards, and American Association of State Colleges and Universities (p. 3). Similar objections to provisions of the proposed legislation have been raised by representatives of accrediting organizations (see Bergethon 1975).

Thus, despite concerns over consumer issues and basic problems in eligibility, the current discussion is being joined with rhetoric pertaining to the necessity of reining-in federal initiatives. The following rhetoric is suggestive of the intensity surrounding this issue:

> Perhaps no more catastrophic thing could happen to American postsecondary education than for the federal bureaucracy to become further involved in the accrediting area. If the institutions and people of this nation value the freedom of education, then it should be remembered that there is no quicker route to the loss of such freedom than to have the federal government devise and enforce the standards governing educational programs and the quality of such programs and institutions. It is essential that nongovernmental accreditation be protected and preserved through the improvement and strengthening of this process (Harcleroad and Dickey, 1975, p. 10).

The Changing Federal Role

The role of the federal government in the determination of eligibility is paramount yet subject to much controversy. As reliance of the government on accreditation for purposes of determining eligibility has grown in the past twenty years, an incisive search to define the limits of authority held by the Office of Education has been missing (Finkin 1973, p. 340). In Finkin's estimation, given the lack of clear definition and absence of debate on the Commissioner's role, the Office of Education has perceived its own authority more broadly and largely without challenge. Basis for the presumption of a broader role lay with the consistent vesting of authority in the Office, through eligibility statutes, and by implication from the ever-growing amount of funds the Office of Education has been made responsible for. Consistent with the broader perception of role is the argument that accrediting agencies hold delegated government authority and are therefore themselves subject to scrutiny to determine their responsibility. Congressional support for tightened eligibility language would seem to lend support for this argument. But, if carried to an extreme, this point of view would hold that voluntary accreditation becomes unnecessary when the federal government moves to assure that money is spent in a manner consistent with the public interest. Finkin rejects this view, arguing that there is, in fact, no support for it in the statutes themselves (p. 372). Rather, he argues that a more limited view of federal role is proper. The federal agency role is limited specifically to the determination that nationally recognized agencies are reliable authority for educational quality and are so recognized by members of the academic community. Furthermore, "it is clear that the recognition authority of the Commissioner is limited to accreditation standards directly connected with program quality" (Finkin 1973, p. 372). In Finkin's view, while there is sparse legislative history to examine on this issue, that which is available supports the view that accrediting agencies are not intended to be delegates of federal authority. Therefore, moves by the Office of Education to force accrediting agencies to require institutional policies that reflect the Commissioner's conception of public interest are not lawful (p. 374).

Regardless of one's conception of the proper federal role, the large number of associated issues and the pivotal federal place in the eligibility relationship have accentuated its importance in recent

years. However, in considering the changing role of the federal government with respect to eligibility and accreditation, it is important to remember the basic limitations under existing statutory language. Eligibility of institutions is broadly specified within the eligibility language. No provision is made in that language for the direct measurement of the quality of education; the assumption is generally made that an institution that is accredited by a recognized accrediting organization (usually private) will be eligible for participation. The role of the Commissioner of Education is limited to approval of the accrediting agencies, and has little to do with approval of institutions that might participate in federal programs. It is the list of nationally recognized accrediting agencies that indirectly determine an institution's eligibility (Muirhead 1974a, p. 140). Consequently, two distinct roles have been pursued by the Office of Education: (1) the establishment and operation of recognition procedures for accrediting organizations; and (2) the establishment and application of eligibility procedures for institutions, which rely in large measure on the findings of recognized accrediting agencies.

Recognition of Accrediting Agencies

The procedures for review and listing of nationally recognized accrediting agencies appears straightforward. The accrediting agency that seeks recognition files a petition with the Director of Accreditation and Institutional Eligibility staff. The staff reviews the petition and may investigate. A summary report is prepared for the Advisory Committee. When it reviews the petition, representatives of the petitioning agency and third parties may make presentations. Then the Advisory Committee forwards a recommendation to the Commissioner who decides and informs the applicants of his decision. Although the review of an agency may occur at any time, scheduled reviews occur every four years. Appeals may be heard by specially appointed panels who report to the Commissioner (Muirhead 1974b, pp. 123-128). According to Bell, the importance of the recognition process and accreditation can be seen in the growth of recognized accrediting agencies, from 28 in 1952 to 63 in 1974. (There are 69 recognized agencies in 1976). However, in 1974, for the first time, two agencies were removed from the list—the American Chemical Association and the American Public Health Association (Bell 1974a, p. 2).

In a brief that explored the use by Congress of the findings of accrediting agencies to determine eligibility, the Office of the General Counsel (HEW) (1970) suggested that one reason for the validity of such an approach was that the decisions of the accrediting agency

are accepted only after the agency is determined to be a reliable and accepted authority on the quality of education or training offered by an institution or program. Furthermore, this is done to insure that federal funds are used only at educationally reputable institutions. By this line of reasoning, the recognition process is purported to prevent the abuse of power implicit in the accreditation procedure (pp. 1-3).

From another point of view, which takes cognizance of an alleged threat of expansion of federal influence, the role of the AIES is understood to be strictly limited. The language of Public Law 82-550, the Veterans' Readjustment Act, required only that the Commissioner publish a list of agencies determined to be reliable authorities on the quality of training offered by educational institutions. Thus, Young suggests that the purpose of AIES is to determine eligibility, which is the *only* reason the Office of Education has to recognize accrediting agencies (Young, November 1975, p. 2).

The process of recognition theoretically gives the Commissioner great power over the accrediting organizations. While no accrediting agency can be forced to apply for recognition, none has ever declined to apply for renewal. In reality, the Commissioner is dependent on the approved agencies, particularly in the proprietary field. As a consequence, it has been charged that the approval and renewal process is a "charade" (Orlans et al. 1974, pp. 1, 7).

Increased formalization of the recognition process has accompanied the growing importance of accreditation and eligibility (Orlans et al. 1974, p. 105). For example, a key policy shift occurred when AIES decided that accrediting organizations would be recognized for a limited period of time rather than for an unspecified term (Orlans et al. 1974, p. 122). This new procedure was allegedly an unsettling experience for accrediting agencies (p. 126). Nevertheless, by relying on accreditation in the eligibility determination process, the Commissioners of Education have astutely avoided making direct eligibility determinations. Judgments made directly about the eligibility of institutions would be tricky at best and politically unwise, especially in cases involving marginal institutions (p. 106).

Prior to the 1974 change-in-recognition regulations, Finkin (1973) noted that the 1969 recognition criteria essentially continued regulations already in effect and reflected accrediting organization practice. The changes did significantly formalize the recognition procedure and emphasize precedural components required in the accrediting process. In addition, specific requirements were added to encourage a method, i.e., institutional or program self-study, and to foster con-

cern and willingness to enforce ethical standards among agency members (pp. 368-369). The methods by which recognition criteria are developed have also changed. For example, earlier criteria (1952, 1969) were developed privately by the staff after consultation with a few experts. But the 1974 criteria required public meetings and circulation of drafts (500 copies), as well as repeated discussion by the AIES advisory committee. Four complete revisions were done over a period of a year and a half before publication in the Federal Register (Orlans et al. 1974, p. 165).

Much public value has resulted from the change in procedure. For example, Commissioner Bell suggests that revised criteria for the recognition of accrediting agencies, published in August 1974, directly benefit educational consumers, since the new procedures include: "(1) measures to improve the self-assessment process; (2) development of workshops for evaluators; (3) changes in evaluative criteria; (4) adoption of due process and redress procedures; (5) inclusion of lay persons on decision-making bodies; and (6) stronger ethical practice codes for accredited institutions" (Bell 1974b, p. 8).

The 1974 Recognition Criteria cover diverse aspects of the organization of the accrediting process. Among the 1974 criteria for recognition is the note that it is unlikely that more than one agency or association will be recognized in a geographic area or field of specialization. Competing agencies are expected to demonstrate the need for their services as well as that their existence does not disrupt the activities of institutions or programs (Accreditation and Institutional Eligibility Staff, June 1975, p. 9). Accrediting agencies seeking recognition must show that functional criteria are met, such as adequate organization, definition of scope, and proper procedures. Thus, an institutional or program self-analysis and on-site visit is a required procedure (p. 11). The agency must demonstrate its responsibility also. Under this provision, each agency must take into account the public interest and rights of students as well as the publication of the status of institutions under review or consideration. Written procedures must be provided for treatment of complaints regarding institutional or program quality. Due process must be provided in the accreditation procedure. The capability and willingness to foster ethical practices also is required, including requirements of equitable tuition refunds and nondiscrimination in admissions and employment. There should be evidence that an institution is continuously evaluating its accomplishment in comparison with its goals. Finally, petitioning accrediting agencies must be viewed as *reliable* and *autonomous* (pp. 8-14).

Although recognition is a powerful tool, a basic dilemma persists for a government organization with no clearly prescribed power and dependent on private organizations for its decisions.

> Revised criteria for recognition, public conferences and private discussion, formal communication, reprimands, compliments, and stipulated conditions for continued recognition have been the chief means by which OE has sought to change the organization, procedures, and performance of accrediting agencies to reflect its changing ideas of the public interest. . . . Any or all of these means are unlikely to change the basic nature of accrediting agencies, their responsibility to private interests, or the practical difficulties of defining and enforcing educational standards (Orlans et al. 1974, p. 490).

As suggested earlier, the Office of Education staff is in a dependent relationship to the accrediting agencies it must recognize. Yet, according to Muirhead (1974b, p. 125), revisions in the criteria for recognition of accrediting agencies have been the major instrument used by the Office of Education to support changes in accreditation with respect to eligibility.

This use of recognition criteria to indirectly influence the policies and procedures of accreditation has been labeled the *"display"* of government policies through recognition criteria. Orlans and colleagues suggest that requirements for nondiscrimination, nonproliferation of accrediting agencies, the promotion of proprietary school accreditation, and due-process requirements are all examples of this display of policy through recognition requirements (Orlans et al. 1974, p. 161). It is also alleged that the display of policy through recognition procedure does not result in much change, only rhetoric. For example, Orlans and colleagues assert that there is no more glaring gap between theory and reality than in the distance between the requirement that recognized accrediting organizations require ethical standards by their institutions and the absence of them in practice (p. 173). Some of the policies defy logic. For example, the requirement that accrediting organizations have public members is contrary to the basic private nature of accrediting; i.e., "They [accrediting agencies] are private, not public, organizations representing private, not public, interests and have only such obligations to the public as they willingly assume and are mandated or prudent for nonprofit, monopolistic organizations with quasi-governmental functions" (p. 178).

AIES and Accreditation

The manner in which the AIES and accrediting agencies or their representatives view each other and their respective roles is complex.

It seems clear that the AIES view their role as limited to recognition of accrediting agencies. "Current laws and statutory regulations governing institutional eligibility reflect the conviction of the Congress that the Federal Government, through the U. S. Office of Education (USOE), should not be in the business of directly accrediting schools" (Accreditation and Institutional Eligibility Staff, January 28, 1975, p. 2). The same staff has also consistently praised accreditation as the best guide to an institution's standing or quality, while taking note that certain departments at unaccredited schools might be stronger than departments at accredited schools (see, for example, Accreditation and Institutional Eligibility Staff, no date, p. 3). In December 1974, Commissioner of Education T. H. Bell gave a ringing endorsement to accreditation in his testimony. He perceived accreditation as "the educational community's own means of holding itself accountable," a method supported by the Office of Education as a means to contribute to the strengthening of institutions and postsecondary education (Bell 1974b, p. 7). AIES support for private accreditation is not surprising, since the policies exhibited by the AIES were in earlier years heavily influenced by the National Commission on Accreditation. Examples include the preference of private accrediting agencies over state agencies, an interest in institutional rather than program accrediting, and the preference for one-agency recognition per field (Orlans et al. 1974, p. 124).

Although there are repeated charges that the AIES support of private accreditation has recently declined, this runs counter to the long-term pattern. Thus, for one hundred years the Office has been publishing lists and directories that, by definition, formed the common perception of legitimate higher education. However, in the past few years one change in policy has been the almost exclusive use of lists of institutions based on the *private* accrediting organizations. While at one time OE directories included a multitude of institutions accredited or recognized by a variety of sources, particularly the states, when the publication of "Accredited Postsecondary Institutions and Programs" occurred in 1971, the list was limited to those institutions accredited by private agencies, with the sole exception of New York (Orlans et al. 1974, p. 95).

The Director of AIES, John Proffitt, strongly affirms a role for private accrediting agencies in maintaining educational standards. AIES is interested in reducing pressure that arises from equating accreditation with eligibility. At the same time, it seeks to develop responsibility and reliability within private accreditation without intruding into the process itself, but does seek to use the recognition

process to cause accrediting agencies to address the problem of institutional and program integrity in their determination of quality (ideas of Proffitt quoted in Young, March 1976, p. 2).

Procedure for Terminating Eligibility

The eligibility of an institution to participate in federal-aid-to-education programs may be terminated when the institution is not in compliance with one or more of the elements required for eligibility. In the case of public and nonprofit schools, this usually occurs because accreditation has been withdrawn, frequently as a result of school closure due to insolvency. With proprietary schools, action more frequently results from a change in ownership or control. When failure to comply with eligibility requirements has been determined, the institution is notified by certified mail. Then appropriate officials, program directors, regional offices, and guarantee agencies are provided a copy of the letter. Of course, the Commissioner may suspend eligibility for the Guaranteed Student Loan Program without notice for short periods of time, or for up to 60 days with notice, or limit the eligibility after notice and hearing. Eligibility may be terminated after notice and hearing, with opportunity for appeal ("Federal Eligibility System . . ." 1975, p. 40).

Evolution of the Commissioner's Advisory Committee

The evolution in role and public involvement of the AIES Advisory Committee illustrates the changing nature of the federal role in the accreditation-eligibility mechanism and attendant controversies. The committee was set up to assist the Commissioner in his responsibility to publish a list of nationally recognized accrediting agencies. To accomplish this purpose, the committee holds hearings, gathers and evaluates data on performance (with the assistance of the AIES), and recommends recognition along with the duration of the recognition period to the Commissioner.

Brown (1975) divides the growth of the committee into three stages. Stage one, from the chartering until June 1970, was an "era of good feeling" during which the public was excluded, membership was primarily from the professional accrediting world, and discussion during the six meetings held in that period was devoted to policy issues. According to Brown, "the Committee had little difficulty deciding that the Commissioner should rely upon private, non-governmental accrediting agencies for eligibility purposes, and with only one State agency representative (who according to Committee records never attended), it is not surprising that they concluded that the

recognition of State agencies for eligibility purposes would lower the quality standards which national and/or regional accrediting agencies had struggled to establish" (Brown 1975, p. 22). The committee, in Brown's estimation, was in agreement that the Commissioner had some form of oversight responsibility for accrediting agencies (p. 23).

During the second stage of the committee's life (June 1970 to April 1972), the professionals from the world of accrediting were dropped from membership and replaced with more representatives from higher education, from state government, associations, and two students. The Committee had limited relationships with those from professional accrediting bodies and statements about federal intrusion became popular among accrediting people. The membership change occurred at the same time that needs for accreditation for eligibility purposes were growing. The debate of the committee became acrimonious, and concerns were voiced regarding the need for the accreditation process to take into consideration racial and sexual discrimination. Possible designation of state agencies, and consumer abuse were also discussed.

The third stage, from August 1972 to the time of Brown's (1975) study, was a period of open hearings, third-party representation, and use of legal counsel and consultants. "Suddenly, the whole world of accreditation, now vastly expanded over proprietary as well as not-for-profit institutions, was being opened up to a kind of ventilation, a kind of across-the-board review that was new, and while exciting and refreshing to some, was establishing dangerous precedents for others" (p. 24). The committee encouraged a greater role for the states, and the triad concept—which emphasizes the interdependence of accrediting organizations, state regulatory agencies, and the federal government—came into flower. The third-stage committee had to face issues arising from the 1972 Education Amendments, debate arising from many studies, and an awareness that eligibility had become critical to many institutions. Delays were common, review procedures were becoming more important, and speed was often vital to institutional survival.

In Brown's judgment (as former member and consultant to the committee), the nature of the committee had been altered by calls for openness, revelation of data, due process, and established procedures. These calls were accompanied by a growing lack of confidence in accreditation itself. However, Brown dismisses the idea that the committee or the AIES ever worked to have the federal government take over the role of accrediting. Instead, he argues that the committee has consistently worked to strengthen private accreditation (p. 25).

In fact, Orlans and colleagues have argued that there has been a conflict in the role of the committee. If the committee has from the beginning pushed private accreditation, as Brown suggests and Orlans and colleagues argue, it has found it easy to do so, since it is responsible for recognition requirements, recommends decisions, and reviews the performance of private accrediting groups (Orlans et al. 1974, p. 171).

The committee as presently chartered has low-key responsibilities, such as to review policies on recognition of accrediting agencies (private and public), to review the recommending policies and legislation on institutional eligibility, to recommend agencies for recognition, to review Office of Education practice, and to keep "within its purview the accreditation and approval process as it develops in all levels of education" (Brown 1975, p. 21).

Accrediting agencies face many questions concerning what accreditation represents. The committee faces the question, What does recognition mean? Young argues that the committee must consider the issue of what quality is required for eligibility, and must insist that accrediting agencies specify their objectives and how they are achieved. This would slow down any movement toward a universal standard of quality that, in Young's view, "raises the spectre of a national ministry of education" (Young, November 1975, p. 7). The future role of the Advisory Committee remains an unanswered question along with so many other questions about the eligibility relationship.

The Federal Role in Funding Education Aid Programs

Although many basic issues, even at the constitutional level, render discussion of accreditation and eligibility important, one monumental development lies behind much of the controversy. The federal government has made many quantum leaps of change within the past fifteen years in providing funds for educational aid programs in higher education. This is a topic that requires separate volumes of discussion, but because of its importance to the issue at hand, a brief narrative is provided.

The Higher Education Act of 1965 resulted in federal aid to education in two different forms: institutional and student financial aid. Under the provisions of the legislation, eligible institutions of higher education included public and nonprofit institutions offering traditional collegiate programs leading to degrees as well as public and nonprofit schools offering one-year programs leading to gainful employment. As of late 1974, close to 3,600 institutions met the statu-

tory definition of eligible institutions of higher education (Muirhead 1974b). However, in addition, some categories of proprietary schools were made eligible to participate in supplemental grant programs, direct student loan programs, and college work-study programs. Over 1,300 accredited proprietary institutions were eligible to participate in those programs. The Guaranteed Student Loan Program provided another category of schools called vocational schools; over 3,000 schools including public, nonprofit, and proprietary, fall into that category. Seven types of institutions are eligible to participate in the Guaranteed Student Loan Program: foreign schools, proprietary (four-year and higher), junior colleges, hospital schools of nursing, medical technology and related institutions, and public area vocational schools (pp. 116-117).

The importance of eligibility and accreditation is clear in the case of the Guaranteed Student Loan Program, since it affects more institutions and students than any other federal program that relies on accreditation. Although alternatives to accreditation are available, accreditation is the method for private vocational schools to achieve eligibility. And in the words of Orlans and colleagues,

> Unfortunately, accreditation has not sufficed to protect the student and government dollar, which has been taken by numbers of unscrupulous accredited proprietary schools for services not rendered. OE has been unconscionably laggard about ejecting such schools from the program under powers it received in 1972 and, in general, has done far too little to protect students (Orlans et al. 1974, p. 391).

Although the loans are insured and bankers protected, "Accreditation does not protect the student's interests adequately or, in too many cases, at all" (p. 391).

The stated objective of the Guaranteed Student Loan Program is to help any student, regardless of income, to finance an education with a loan from an authorized lender. In January 1973 there were 19,359 eligible lenders (Orlans et al. 1974, p. 393). If losses occur, the government reimburses the lenders. As an indication of the growth in volume of loans keyed to eligibility, consider these figures: Annual loan volume rose from $77 million in FY 1966 to $1,032 million in 1972 (p. 394). It has been repeatedly averred that when students take out such guaranteed loans with the assistance of their institution, they assume that the government is certifying that the institution is educationally and financially sound and reliable. Yet, in most cases eligibility depends on compliance with basically nonacademic ele-

ments; and academic accreditation is clearly not determined by the government.

Although the problems of abuse of the guaranteed student loan program are complex, they typically arise because of the risky student population at which they are directed, the unstable nature of some of the institutions processing the loans, and because at many institutions the loans and processing fees represent a source of capital (Orlans 1974 et al., p. 401). A strong relationship has been observed between the tuition refund policy of an institution and the loan default rate. The borrower who drops out is required to repay the loan; but if he feels the schooling has not been worth his investment, or if the institution does not readily refund his tuition, he may default. If the school itself becomes ineligible for any reason, more defaults may occur and a snowballing effect take place due to the institution being dependent on tuition income from the loan program. A gradual tightening of regulations has been practiced by the Office of Education, with special agreements, limits on loan volume and dependency, frequent visits, etc., but the attractiveness for abuse remains: Too many institutions depend on tuition income; tuition income is dependent on students having money available; and government programs have given the students that money.

Statistics provided by Muirhead indicate the growth of programs and extent of involvement of institutions. In spring 1975, the Eligibility Task Force of the Institution for Educational Leadership reported that while the number of institutions eligible for all specific programs was not known at that time, nor was the number of students represented (*Report on Institutional Eligibility* 1975, p. 4), as of May 30, 1975, 8,823 educational institutions were reported as eligible for the guaranteed student loan program and over one million students were participating. For the Basic Educational Opportunity Grant program, 5,553 institutions were eligible, with 337,370 students participating and $181 million involved.

The Eligibility Staff and Educational Consumer Protection

Actions by the Commissioner and the AIES have been in the forefront of the government's effort to protect consumers. For example, in Muirhead's view (1974b), the 1974 revisions of accrediting recognition criteria, the improved review mechanism, the review by the Advisory Committee of the ethical practices criteria, and a tightening of the three-letter procedure have all been part of the Office of Education reaction to consumer protection needs (pp. 136-137).

The main focus of the federal consumer protection effort in edu-

cation is the AIES (Federal Interagency Committee 19[illegible], p. 18), indicating its relationship to eligibility issues. However, the question remains as to who will take the leadership in federal education consumer protection affairs. Power and funding rests with each agency, and each agency has its own agenda. Thus, the Veterans' Administration is diligent in enforcing its refund standards, so that in many cases veterans get a more generous refund than do other students. Yet the Veterans' Administration has not made many attempts to consult with the Federal Trade Commission for information about specific institutions (Federal Interagency Committee, p. 41).

Despite problems of federal coordination, response of the AIES to the allegation of fraudulent practices serialized in the *Boston Globe* included a request that the two nationally recognized accrediting agencies named conduct full reviews of these allegations. The schools themselves were asked to respond directly to the allegations in the *Globe* (Accreditation and Institutional Eligibility Staff, January 28, 1975, p. 1). The most significant effect of the series was to intensify the review of problems associated with eligibility, and to reemphasize the need for better communications among the participants in the determination of eligibility (pp. 16-17). Legislative options considered by the Office of Education in the effort to improve consumer protection included the possibility of a required national tuition refund policy, a possible expansion of the Mondale amendment to include authority for recognized state agencies to accredit private vocational schools, a broadened authority to limit, suspend, and terminate, and requirements for disclosure of dropout rates, placement records, and other data from proprietary schools (p. 7).

Reports of allegations of consumer abuses in schools made eligible by means of accreditation have also resulted in visits and activities by the AIES. Thus, between 1970 nd 1974 the AIES made twenty reviews of school practices (Accreditation and Institutional Eligibility Staff, July 15, 1974b, p. 160). And between 1969 and 1974 the AIES requested a review and report of findings on 540 complaints about proprietary institutions alone. Most of the complaints pertained to refund policies, misrepresentation in advertising, or illegitimate enrollment practices, although 25 percent were complaints regarding instruction, learning facilities, and physical plant (Accreditation and Institutional Eligibility Staff, July 15, 1974a, p. 186).

In recommending steps for the federal government to take in education consumer protection, the Federal Interagency Committee (1974) put much of its emphasis on increased meaningful information for students. Students should be given a statement of rights when they

apply to participate in a federally funded program; then redress mechanisms should be provided if these rights are violated. The FIC recommends that the federal government should relinquish its Holder In Due Course rights if students can establish that unfair or misleading practices were used. Then the government should proceed against the institution. The FIC also recommends that a clearinghouse be developed to share information on the nature of consumer complaints in education, and to develop communication links between consumers, accrediting organizations, education groups, state agencies, and the federal government. Since accreditation, renewal, and approval are confusing terms, the federal government should standardize them.

However, the FIC also recommends that the government assume responsibility for the effects that disbursed funds have on educational consumers, along with those agencies that recognize or certify institutions, and demand that protection for consumers be part of the recognition criteria. Consequently, several detailed recommendations are provided by the FIC to buttress the statutory criteria for eligibility. Alternative evaluuation procedures are suggested, as are a series of full-disclosure recommendations. Any institution that falsely advertises, for example, would face termination of eligibility (pp. 47-53).

Numerous changes in the eligibility system have been proposed that might better serve the student and the federal government. One change would broaden the authority of the Commissioner to limit, suspend, and terminate eligibility of participating schools to all federal aid programs (now applicable to the Insured Student Loan Program). Another suggested change would expand the Commissioner's authority to list state agencies determined to be reliable authorities on public and private vocational school quality. Also program eligibility requirements could be tightened so that schools must disclose student attrition, completion, and job-placement data, and present evidence that a program for vocational purposes actually does prepare students for jobs. It also calls for the adoption of fair and equitable refund policies (Accreditation and Institutional Eligibility Staff, January 1975, pp. 23-24).

Despite all measures to tighten eligibility regulations and other procedures, questionable practices continue that effect educational consumers in federally funded programs. In May 1976, Winkler described an institution in Maryland that received the second largest amount of federal student aid money in Maryland, yet had only 535

students. Almost 95 percent of institutional income came from federal assistance used by students for tuition. This institution originally was eligible because its business school division was nationally accredited. When the institutions parted ways in 1972, the school became eligible by way of the three-letter rule. It is licensed by the state, but has never sought accreditation. It has been given time to correct its deficiencies by the state; federal officials are reported by Winkler as saying that they are proscribed from inquiring into actual program deficiencies of the institution (Winkler 1976, p. 7).

Another example of the protracted nature of eligibility determination and termination can be seen in the "West Coast Schools Case." Automation Institute of Los Angeles began to participate in the Federally Insured Student Loan program in July 1969, since it was eligible as a member of the National Association of Trade and Technical Schools. Two years later the Institute purchased West Coast Trade Schools, which had been eligible under an advisory committee recommendation since 1967 (that is, prior to the recognition of NATTS). With recognition of NATTS, West Coast was given until September 1972 to acquire accreditation; this was extended until February 1973. Accreditation was denied by NATTS in January 1973. On appeal, eligibility was extended by the Office of Education to April 1973. On May 4, eligibility was suspended by the Office of Education. On May 24, West Coast was closed by its owners. Meanwhile, most of the student notes were sold to twenty commercial lenders who thought they were 100 percent guaranteed; however, since the new holders do not have records on student attendance, the Office of Education will not pay default claims. Records covering the students also have been subpoened by a Grand Jury. In commenting on the case, Commissioner Bell observed that the Office of Education had no authority to look into the school itself, its administration, or personnel. Since it met eligibility requirements, it was eligible to participate ("The West Coast Schools Case: HEW's Version," 1975, pp. 3-4).

Although harsh criticism can be made against Congress and the Office of Education for not providing more mechanisms to protect consumer interests within the eligibility legislation, acknowledgment must be given the congressional realism that perceived more need to broaden eligibility of students for federal funding than to provide consumer protection (Perkins 1975, pp. 9-10). The effects of that realism continue to plague educational consumers.

Proposed Changes in Eligibility Language

In late 1975 and early 1976 the AIES circulated for discussion the language of proposed amendments to Subpart 1 of part F of Title IV of the Higher Education Act of 1965, which proposal would change important portions of the eligibility language for institutions and further modify the federal role.

Proposed section 498A (a) (1) would permit the duly authorized representative of the Commissioner to have access to financial, attendance, admission, and other records maintained by schools so that a fiscal audit could be performed regarding funds obtained from a student who had received grants, loans, or other benefits insured under the provisions of Title IV. Also, access would permit a determination of institutional compliance with "any statute, regulation, or other standard or requirement relating to participation in the program" (Accreditation and Institutional Eligibility Staff, January 8, 1976, pp. 1-2). Also, to be eligible, an institution would have to comply with reasonable and appropriate financial responsibility standards, and comply with regulations determined by the Commissioner on the maintenance of student records, public claims pertaining to employment of graduates, and fair advertising, recruiting, enrollment, and tuition refund policies.

Subparagraph (c) gives the Commissioner authority to publish a list of state agencies determined to be reliable authorities on the quality and probity of public postsecondary education or training. Further, the AIES suggested that section 1201 be amended so that the proposed National Advisory Committee on Accreditation and Institutional Eligibility be authorized to advise the Commissioner on standards to be met for institutions that do not have appropriately recognized accrediting or state agencies so that those institutions might be eligible for a period of up to two years (pp. 3-4).

The proposed Advisory Committee would be added by amending Title XII. In addition to recommending policies that pertain to the recognition of state and accrediting agencies and institutional eligibility matters, the proposed committee would have the responsibility for reviewing legislation about the Commissioner's responsibilities, especially on the subject of accreditation and reviewing and advising on developments in the accreditation process (pp. 5-6). At the public presentation meeting the author observed objections to this measure because, it was charged, the Commissioner has no responsibility in accreditation except to recognize accrediting agencies known to be reliable authorities.

Proposals to tighten eligibility regulations and recognition criteria

have resulted in mudslinging among the participants. While some early consensus on proposed legislation had been achieved, by March 1976, fireworks were reported in the form of an unexpected charge by Ken Young to Congressman James O'Hara of Michigan that the authority of the Commissioner of Education would be greatly expanded with proposed legislation, while the potentially onerous regulation would not solve any of the real problems. This led to the speculation that "COPA's antagonism to the bill suggests the accrediting agencies want no Federal strings whatever attached to the accrediting process ("Flap Developing Over Institutional Eligibility Proposal" 1976, p. 3). At the time of this writing many of the features proposed for the legislation had been whittled away (see chapter two for further reaction to some of the issues).

Other Federal Eligibility Systems

The federal-aid-to-education programs and eligibility system covered in this report are those administered by the Office of Education; however, there are other aid and eligibility systems with educational benefits that are used by the federal government.

The Social Security Administration operates the second largest federal source of student financial aid. Under that program, almost $700 million was distributed to 600,000 students (FY 1974) who were eligible beneficiaries. The criteria used by the Social Security Administration to select eligible institutions are much broader, and overlap institutions that are eligible for Office of Education-administered programs. Thus, schools can be either public-supported or private schools accredited nationally or by a state or, if unaccredited, have their credits accepted from an accredited school. The SSA uses no field staff and receives few complaints (Federal Interagency Committee, 1974, p. 21).

The Veterans' Administration operates the largest student financial aid program. According to the National Advisory Council (1975), although state approving agencies supported by the Veterans' Administration are supposed to review each course taken by veterans, they may rely on accreditation, approving a course if it is offered by an accredited institution.

The state agencies usually oversee vocational and proprietary schools and hold inspections twice yearly. Although scrupulous records are maintained (for example, on attendance), there is no assurance of the quality of the education.

The Veterans' Administration and Social Security systems for determining eligibility have represented an anomaly to investigators. In

the view of Orlans and colleagues (1974), who intensively examined the Office of Education eligibility system,

> Social Security conducts no independent evaluation of its schools and relies mainly on the efforts of other public and private agencies to identify appropriate schools. Social Security staff exhibit an interest in school quality and probity that ranges from passive to imperceptible (p. 444).

Both the Office of Education and Veterans' Administration eligibility systems are designed to assess to some extent the quality and integrity of an institution; in contrast, the eligible Social Security beneficiary has only to enroll to receive benefits. "Yet, strangely, it is the OE and VA, not the Social Security, programs which have been subject to repeated criticism and complaints of student exploitation and school malpractice" (p. 445).

Summary

At least one analyst believes the function of the Office of Education in the eligibility relationship has been governed in the past few years by an expansionist philosophy. Despite restrictive language, the AIES has found it necessary to alter its mandate while carrying out the basic functions of determining institutional eligibility and recognizing accrediting agencies. The Office of Education is dependent on the accrediting agencies it recognizes. Its procedures for recognition have been formalized and the requirements tightened in a display of government policy toward educational institutions and accreditors. Evolution in the policies and procedures of the Advisory Committee also demonstrate movement in the relationship of the AIES and accrediting agencies, but the support of that agency for the role of private accreditation has been steadfastly affirmed. Behind much of the interest in growing federal activity is enormous growth in federal funding of education programs. Despite expanded activity and regulation by the federal agency responsible for the determination of eligibility, continuing slip-ups in educational consumer protection have occurred in institutional programs eligible for federal aid. New legislation has been proposed that would further tighten the AIES grasp on eligibility determination and accrediting agency recognition, but stringent criticism followed presentation of the proposed legislation. Although the subject of this discussion is eligibility determination for programs funded by the Office of Education, two other eligibility systems for education exist: the Veterans' Administration and the Social Security Administration, both substantial in size, and subject, so far, to less public criticism.

Nongovernmental Accreditation

The role of nongovernmental accreditation has also grown and changed so that it is second only to the role of the federal government in the eligibility relationship. All forms of accreditation are subject to pressures, criticism and questions of role. Recently, private, nongovernmental accreditation has been unified by COPA, a special-interest organization that is championing accreditation and speaking out on issues pertaining to the determination of eligibility.

In contrast to most nations of the world, the United States does not have a strong regulatory agency for higher education operated by the central government, and state regulation varies widely. To fill this vacuum, private accreditation developed to certify that institutions met certain standards. Because of this quasi-governmental function, accrediting agencies have always had to look in two directions: toward their members, the institutions, and toward the public. However, according to Dickey and Miller (1972), the focus has shifted more toward the public obligation in recent years.

Accreditation developed through four phases in this century. First, until 1914, there was growing pressure for federal accreditation; then, from 1914 to 1940 regional accreditation took shape. The period between 1940 and the early 1950's was a time of dissatisfaction with the accomplishments of private accreditation; however, it was followed by the current period of "acceptance" of accreditation accompanied by growing federal involvement. During the 1940's all regions of the country came under the scrutiny of a regional accrediting agency, and the proliferation of special accrediting agencies led to the formation of the National Commission on Accreditation (Dickey and Miller 1972, pp. 5-23). Since 1952, great federal reliance has rested on accreditation as an indicator of educational quality.

In the view of Dickey and Miller (1972), there has been a "virtual geometric increase in the governmental interest in accreditation since 1968," which they attribute primarly to moves by federal administrators rather than to intentional expansion brought by changes in legislation (p. 49). From their viewpoint, this increased involvement implies a criticism of the accrediting agencies, a lack of faith in the ability of accrediting agencies to change, and an implication that only federal involvement can make the accrediting agencies more publicly responsible (p. 51).

The historical purposes of institutional accrediting have included the development of excellence in postsecondary institutions through criteria and guidelines for assessment, the encouragement of institutional self-improvement through planning and self-study, the establishment of clear, appropriate objectives, and the assurance that an institution has a reasonable chance of achieving those objectives (Kirkwood in Dickey (1972), and Kirkwood, September 13, 1974, p. 225). The determination of institutional eligibility to participate in federal programs is not one of the historical purposes of institutional accreditation.

Those who have been involved with accreditation are aware of its current role in eligibility determination and its perception in the public eye as an indicator of quality, although they are quick to point out that eligibility historically has not been a purpose for institutional accrediting. Dickey comments, "while accrediting agencies may continue to emphasize as the primary purpose of their existence assisting member institutions to improve, as far as the general public is concerned, the primary purpose of accreditation appears to be that of certifying the level of quality of an institution or program," requiring the accrediting agency to assume more and more of a public purpose (Dickey 1975, p. 17). In a similar vein, Millard argues that the arrival of specialized accrediting agencies and their professional standards broadened the "public" that can legitimately claim an interest in the outcome of that type of accrediting (Millard 1975b, p. 1).

Just as the role of the federal government in education has changed in the last 30 years, so have the purposes and perception of accreditation.

Types of Accreditation

It is appropriate at this point to review the differences in types and nature of accrediting. One distinction made is between institutional (general or regional) and specialized (program or professional) accreditation. *Institutional accreditation* is awarded by the accrediting commission of the six regional accrediting associations (Middle States Association of Colleges and Secondary Schools, Southern Association of Colleges and Schools, etc.). This type of accreditation applies to a total institution and is intended to signify that the institution as a whole is achieving its objectives in a satisfactory manner. The rules for eligibility, procedures, and standards are similar among the regional accrediting commissions (Accreditation and Institutional Eligibility Staff, June 1975, pp. 2-3).

Specialized accreditation (program or professional) is conferred by an organization of national scope that represents a special subject area, such as cosmetology or law, and it may apply to an entire institution if that institution has a simple purpose, or it may apply to only a single program within an institution. While specialized accreditation is intended to protect the public from incompetence, marked differences in operating procedures and policies exist among the specialized accrediting agencies.

Institutional accreditation is not equivalent to specialized accreditation, since it applies to the entire institution and does not validate any special programs within an institution (Accreditation and Institutional Eligibility Staff, June 1975, pp. 3-4).

To be eligible for institutional accreditation an institution is required to satisfactorily meet the following requirements: (1) a charter from a government agency permitting it to award degrees, certificates, etc.; (2) a governing board that reflects the public interest; (3) at least one educational program that lasts a year or the equivalent at the postsecondary level, with clear objectives for the program and the means to achieve them; (4) adequate preparation for academic work by prospective students; (5) admissions policies that are consistent with institutional objectives; (6) a published financial statement indicating adequate financial resources; (7) the completion of most of the cycle of an educational program prior to evaluation; and (8) the submission of an institutional self-study (*Accredited Institutions of Postsecondary Education* 1975, p. 291).

Steps in Accreditation

The accrediting procedure usually requires five basic steps. The accrediting agency establishes standards for accreditation in collaboration with educational institutions. The applicant institution performs a self-study or evaluation and compares itself to the accrediting standards. Then a team selected by the accrediting agency visits the institution or program to determine if standards are being met. If the accrediting organization is satisfied with the institution, its accredited status is officially published. Periodic reevaluations of institutions or programs are conducted by the accrediting agency (Accreditation and Institutional Eligibility Staff, June 1975, p. 2).

In accrediting and reevaluating institutions, the regional accrediting commissions follow a general pattern that explores the purpose of the institution and the extent to which that purpose is pursued and met in terms of its organization, administration, programs, and resources, including such particulars as faculty, library, physical plant

services, and off-campus programs. It should be emphasized that all aspects of the education program are examined in relation to institutional purpose (Dickey 1975, pp. 15-16).

Perceptions of Accreditation

What accreditation represents has been the subject of many critiques and much rhetoric. What follows are some notions of what accreditation is about.

One perception of accreditation is that it is a purely subjective, qualitative process that takes place at the request of the institutions, a process which the government in our society has been reluctant to assume. "It divides the universe of educational institutions into two parts—the accredited, which is formally found to meet minimal standards, and the unaccredited, which may or may not meet them" (Orlans 1974, p. 195). But it is also alleged that the regional accreditation, under which most colleges and universities in the United States are accredited, does not make any useful distinctions between or among institutions. Orlans and colleagues (1974) argue that regional accreditation is *not* a judgment of quality, or at least if it is, the judgment varies from institution to institution (p. 264). This is viewed as a particularly significant shortcoming if accreditation is assumed to indicate minimal quality or institutional probity (pp. 314-315).

Perhaps a more charitable way of expressing this same doubt about whether accrediting agencies really do accomplish what some members of the public think they do is found in Bell's observation (1974a) that "accreditation has sought to evaluate whether an institution is capable of delivering what it promises—not whether it intends to" (p. 3).

Another way to look at the role of accreditation organizations is to consider what their utility would be if all federal and state responsibilities were being met. When looked at this way, their function is to encourage program and institutional quality and integrity within the purposes of distinct institutions. This is why there is so much emphasis on self-study in accreditation. It can can be argued that this type of cooperative growth and stimulus to innovation can only be promoted and encouraged through the use of voluntary organizations such as accrediting groups (Millard 1975b, p. 13).

The Accreditation and Institutional Eligibility Staff (June 1975) believes voluntary accrediting organizations are "the primary agents in the development and maintenance of educational standards in the United States" (p. [1]). The AIES cites a long list of functions that

accreditation performs, including the certification that an institution has met established standards, the identification of acceptable institutions for the benefit of students, rendering assistance to the process of transferring credit, and serving as a mechanism to identify institutions worthy of investment of public and private funds. Other functions include acting as a spur for institutions to raise their standards and the establishment of suitable criteria. Finally, accreditation is used as a basis for determining eligibility for federal assistance (p. 1).

Other representatives of the federal government have expressed their understanding and sympathy with the peculiarly voluntary nature of accrediting. For example, then Acting Deputy Commissioner of Education S. W. Herrell testified that accrediting agencies are voluntary agencies, are private and independent, and are committed to the stimulation of institutional and program "uplift" through expert peer review, but without any legal authority to require compliance. Thus, "they work instead by persuasion to maintain understanding and acceptance of their role and function by their constitutents and the general public" (1974, p. 43).

Another aspect of the nature of accrediting work that cannot be overstated is its autonomy. Thus, as Muirhead warns, "We must constantly bear in mind . . . that the accrediting agencies are private, independent, voluntary agencies having discrete, albeit laudable, purposes which do not always coincide neatly with the objective inherent in Federal aid to education" (1974b, p. 129). They employ volunteers, are dependent on their members for funds, and are increasingly vulnerable to litigation because of their decisions, procedures, and intimate knowledge of institutions.

One role played by accrediting organization representatives is that of protester over the misunderstood part of accreditation in eligibility decisions. The functions of accreditation as a peer review of educational quality—only one element in the determination of eligibility—is singled out for special emphasis (see eg. Fulton and Hart 1974, p. 302). This rejection of the primacy of accreditation in determining eligibility is supported by Frank Dickey, former Executive Director of the National Commission on Accrediting (Dickey and Kirkwood 1974). Appearing before the Subcommittee on Education of the Committee on Labor and Public Welfare, he noted that accreditation was not designed or developed to be a determinant of eligibility for federal funds: "The accrediting agencies did not seek this function; rather, it was assigned to them by congressional action; however, in doing so, Congress did not intend that the nongovernmental accrediting organizations should become subject to a set of criteria that are

now forcing the accrediting agencies to conform to certain Federal criteria and also to perform tasks that take on the flavor of policing functions not compatible with the work of voluntary associations" (p. 222). In his opinion, legislation pertaining to the determination of eligibility for federal funds should be revised so that factors other than accreditation play a more important role in determining eligibility (p. 223).

Accrediting organizations are also pictured as holders of a public trust, the consequence of which is that they are no longer responsible solely to member institutions, which are their primary means of support. According to Harcleroad and Dickey (1975), court decisions have identified the "quasi-public nature of accrediting actions," showing how dependent the government agencies and the public are on accrediting decisions. This decreases the independence of accrediting organizations and makes them aware of their responsibilities to the public, students, professionals, and institutions. It also raises the question, "to whom do they owe their prime allegiance" (p. 7)?

Regardless of the private and voluntary nature of accrediting agencies, they do exist as "normative regulators." Thus, states employ criteria established by these external agencies rather than creating their own criteria. Many state laws refer to accredited schools; some state laws exempt institutions from inspection if they are accredited. In North Carolina, for example, the Board of Governors of the University of North Carolina has published regulations for the licensing of nonprofit educational institutions that wish to confer degrees. These standards are based in large measure on model legislation developed by the Education Commission of the States. Accreditation by an agency recognized by the U.S. Office of Education is accepted as evidence of compliance with the minimum standards specified by these regulations. Although additional evidence of good practice can be required, accreditation takes the place of a substantial package of state regulations (Board of Governors 1976, pp. vi-vii, 4). Federal agencies make the same exemptions, and many federal laws require the accreditation of institutions for various purposes (Federal Interagency Committee on Education 1974, p. 36).

Accrediting agencies waver in response to their new public function and accompanying regulations. Many agencies argue that they were on the scene first, and served effectively long before the regulations that now entangle them were created. On the other hand, it is evident that

> . . . other accrediting bodies have come into existence where there were none, to accommodate schools eligible for Federal programs *if* they are

> accredited. In the trade and technical sector, for example, there came into being the National Association of Trade and Technical Schools, primarily because it could confer accreditation to schools which needed accreditation to make their students eligible for student financial aid programs (Federal Interagency Committee on Education 1974, p. 56).

Allegations that accrediting organizations have been created solely to make categories of institutions *eligible* cast doubt on the generalization that accrediting exists only as a means to improve institutions and represent quality.

One defense of private accreditation vigorously and repeatedly voiced by Richard Fulton, former director of the Association of Independent Colleges and Schools, is that since accreditation is not synonymous with eligibility, criticisms directed at accreditation because of problems arising from eligibility are directed at the wrong target (Fulton 1975, p. 12). To the contrary, Fulton argues that sufficient statutory authority has been given to the Commissioner of Education to enforce other eligibility and program requirements so that fraudulent practice could be stopped without dependence on accrediting agencies. Fulton suggests that if accreditation were the only element in eligibility determination, it would be deficient; the five- to ten-year cycle between accreditation visits prevents adequate surveillance (p. 14).

Functions of Accreditation

Kaplin suggests that no statement of purposes and functions for accreditation can be all-inclusive. Two functions that accrediting should do, it may not do: namely, identify public purposes for educational institutions and programs that meet established standards, and stimulate improvement in standards, institutions, and programs by encouraging self-study (Kaplin 1975, p. 5). Of course, any speculation about what an accrediting agency *should* do has to be tempered by what it *can* do as a private organization. Its power derives from the compliance of others (p. 15).

From the viewpoint of the federal government, accreditation serves two purposes. It is a mechanism to assure value for the government's investment in postsecondary education. It is also viewed as a means by which students and others can identify educationally worthy programs and institutions (Herrell 1974, p. 43).

Criticisms and Pressure on Accreditation

Accreditation has been subject to criticism and challenge. Does it really indicate the present quality of an institution, since accredita-

tion visits and intensive evaluations occur only every five or ten years? Does it discriminate between institutions, since 90 percent of higher education institutions are accredited? Since only a fraction of the total number of proprietary schools is accredited, is it only an administratively convenient sorter of proprietary schools, a selection that culls some desirable institutions (Orlans 1974, pp. 195-196)?

From the standpoint of educational consumer protection, accreditation is scored because agencies publicize only currently accredited schools, not the names of institutions denied accreditation or those on probation or facing loss of accreditation. Although accreditation professes to be a judgment about the general quality of an institution or program, no monitoring or enforcement of standards occurs, nor are the standards a school does not meet publicized. Orlans and colleagues (1974) charge that "accreditation is a reliable indicator neither of institutional integrity nor viability." Furthermore, "accrediting agencies are concerned about financial stability, but this can be difficult to diagnose, and both accredited nonprofit and for profit institutions have collapsed" (p. 465).

The Federal Interagency Committee on Education (1974), Subcommittee on Educational Consumer Protection, argues that accrediting agencies recognized by the Office of Education voluntarily achieve their status by applying for it. In so doing, they indicate a willingness to meet published criteria. Yet they are reluctant to make full disclosure of institutions on probation or to disclose findings about institutions that would serve as early indicators of institutions in trouble. This criticism is tempered by the observation that when the history of accreditation is examined it can be seen that accrediting has been useful to the educational consumer (p. 37).

As Meinert suggests, tension exists between the federal government, which is acting in the name of the public interest under the authority of the spending power in a manner that influences education, and the accrediting agencies, who wish to be used to determine eligibility, but reserve the right to be advocates for their constituency (Meinert, forthcoming, p. 5). However, if Harcleroad and Dickey (1975) are correct, public pressures through court cases are emphasizing the public accountability nature of accreditation to the extent that the institutional functions of accrediting—self-improvement—may become secondary. Thus, the general public's perception of accreditation as the indicator of minimal quality will take precedence over the accrediting agencies' alleged purpose of promoting institutional improvement (p. 26).

What accrediting agencies can do in response to problems of educational consumer abuse and resulting pressures for reform depends

to some extent on what the other elements of the eligibility triad try to accomplish, since the states have the responsibility to enforce laws against deceptive practice and fraud. The federal government can devise program requirements that protect against abuses and guard against interstate fraud. This leaves to the accrediting agencies the responsibility for the development and application of standards to promote and maintain financial stability and corporate continuity in terms of the fulfilment of an institution's purposes. Similarly, ethical standards can be devised that would apply when the mission of an institution has been misrepresented, or when deceptive practices affect the quality of education offered. With this approach, each element in the eligibility triad would be performing a task in keeping with its basic purpose (Kaplin 1975, p. 29).

In responding to criticism of the role of accreditation in eligibility determinations, those representing the accrediting community have agreed that accreditation should be relied on as a criterion in the process of determining eligibility, but it should not be *the* criterion. Accreditation should not be regarded as the collateral for funds granted to an institution. It does not authorize the establishment or cessation of institutional operation. The elements of eligibility that are legal issues should be administered by the appropriate monitoring agencies and not by accrediting groups (Dickey and Kirkwood 1974, p. 224). Within its own terms, accreditation represents institutional probity and is important to federal programs. No other process is known to be more effective. Dickey believes the federal response to accreditation problems that impinge on questions of eligibility should be to focus on the specific problems, not to wage a massive attack that would destroy the existing mechanisms that work in most cases (Dickey 1975, p. 17).

Accrediting agencies publicly see themselves backed into a corner. Many groups are trying to influence educational practices and standards—the courts, the Congress, state legislatures and agencies, unions, and coordinating boards. The number of groups concerned raises questions about the beneficial impact of accreditation on institutional practice. Accrediting groups also must face questions on the use of accreditation in eligibility determinations. Should current practices be continued or changed? If the accrediting agencies respond to the cry for more public representation in their activities, how can the confidentiality of educational records be maintained? How can legal actions that subpoena educational records be handled? What is the responsibility of the accrediting organization to protect the public against fraud (Robb 1975, pp. 1-5)?

Millard (1975b) comments on the pressures that accrediting agencies face in terms of the *publics* that accrediting agencies have. In addition to the direct users of accrediting—institutions, faculty members seeking job mobility, state agencies, the federal government—there are numerous publics whose position on accreditation shifts depending on the issues. Millard proposes that these publics may be arranged according to their proximity to the actual process of accrediting. Thus, first and closest would be the institutions, students, faculty, trustees or owners of institutions. The next level includes federal agencies administering programs that depend on accreditation. Third would be the "accreditors of the accreditors," the AIES and COPA. At the fourth level are national and regional professional organizations whose self-interest may lie with accreditation. Fifth are many regulatory agencies that Millard surmises would eliminate accreditation if they could. Sixth are consumer protection groups that argue that accreditation should be strengthened or supplemented. Further away still are levels that include the public, elected public officials, academic critics, and taxpayers, parents, and other contributors to education (p. 5). The importance of Millard's scheme is that it shows accreditation can never be satisfactory to all who have an interest in it; also, the scheme identifies the scope of publics who will be heard on the issue of accreditation (pp. 7-9). Millard suggests that the failure of accrediting agencies to acknowledge the existence of its many publics explains why more federal requirements and more public disclosure about accreditation are called for (p. 12). Accrediting agencies must specify what they can and cannot do and work to improve what the states do (which is where the policing function should occur). They must locate where the real public interest lies and "reeducate" their prime publics about the importance of accreditation (pp. 14-15).

In response to the criticism of inaction on the part of accrediting agencies, and the sluggish response on their part to the apparent needs of federal administrators, Young urges accreditors to remember that originally the sole purpose of accrediting as defined in federal legislation was to be a reliable authority on the quality of training or education. He challenges accreditors to resist pressures that they do otherwise, regardless of how socially desirable the other purposes and objectives may be (Young, November 1975, pp. 2, 7).

Accrediting organizations have asserted that the existing means of enforcing federal program requirements and other elements of the eligibility relationship should be fully developed and used before alternate means for determining eligibility are employed (Fulton 1975, p. 11).

Another response to criticism about accreditation is the suggestion that it should be reinforced; that measures be taken to strengthen the process by encouraging all higher education institutions to be accredited on a minimal basis from which accrediting organizations would help them develop. This approach emphasizes the value of accreditation as a method to promote improvement through self-study and movement toward realization of institutional purpose (Millard 1975a, p. 29). In this mood, accreditors acknowledge that the concept that "accreditation indicates quality" needs to be validated along with the conditions and evidence evaluated in accreditation decisions. Proposed alternatives that might more effectively indicate quality should not be accepted without trial (Young, November 1975, pp. 2, 7). These tasks may now be on the horizon as accrediting agencies gather together through COPA.

COPA

Accrediting organizations remain proud of their "private" and "voluntary" role in the "governance" of postsecondary education in the United States, a role proclaimed in the recent past by two organizations in Washington, the Federation of Regional Accrediting Commissions of Higher Education (FRACHE) and the National Commission on Accrediting (NCA) (see Dickey and Miller 1972). In particular, the Director of the NCA served as a statesman for the national accrediting interests and offered an alternative to the Commissioner of Education for sanctioning and monitoring private accrediting organizations (Orlans et al. 1974, p. 62). The role of both these organizations now has been assumed by the Council on Postsecondary Accreditation (COPA), which has leaped into the fray with great enthusiasm since its inception in early 1975.

Although COPA represents the merger of FRACHE and NCA, it embraces an even wider group of proprietary organizations, and draws its members from accrediting organizations representing proprietary schools as well as Bible colleges. According to the organization's promotional literature, the mission of COPA derives from the conviction that the strength of U.S. postsecondary education can be attributed to the diversity of its institutions, which, in turn, is derived from the freedom of each institution to experiment and improve under encouragement from private, nongovernmental accreditation. Through private, nongovernment accreditation both institutional and public interests are served. COPA is created to foster and improve private, nongovernment accreditation (COPA, no date, pp. 1-3). It does this by coordination, review of the work of accrediting

agencies, evaluation of proposed activities, and other related functions.

Among its specific functions, COPA proposes to review the activities of its members to assure integrity and consistency, to promote the interests of educational consumers, to develop procedures for recognition of accrediting agencies, to coordinate accrediting activities, to determine that its members develop clear procedures with due process, and to promote research to improve accreditation (p. 4). COPA is also the first national voice on behalf of all nongovernmental accrediting organizations (Young, March 1976, p. 1); that is, it functions as an interest group.

In its short life, and by means of its executive director, Kenneth Young, COPA has articulated strong support for the role of private voluntary accreditation. For example, with respect to eligibility, Young states that COPA strongly endorses the triad concept, whereby federal, state, *and private agencies* are involved in the determination of institutional eligibility for participation in federal programs. The stated objective is to avoid the "dangers" of a system exclusively dependent on federal or state approval. While Young recognizes that alternative mechanisms to the present system may be developed, he argues that any method employed should include the private sector. Furthermore, noting that few state agencies are presently qualified to evaluate educational quality, he suggests that even if they develop this capability, the chartering and licensing of educational institutions in states should be separate from the evaluation of educational quality, which is best reserved for accreditation. In Young's opinion, if the states were up to minimal desirable performance levels in chartering and licensing, many of the problems associated with eligibility would be eliminated (Young, May 1976, p. 2). From his perspective—the viewpoint of COPA as well as that of "most" nongovernmental accrediting representatives—eligibility ought to involve proper chartering of an institution by the states, institutional compliance with federal program requirements, and with federal and state laws, and demonstration of quality (p. 5). In Young's view, the last factor is the only concern for accrediting.

To be eligible for COPA recognition, an accrediting agency must be nongovernmental, must conduct accrediting activities regionally or nationally, and must accredit properly licensed and chartered institutions in postsecondary education that offer valid degrees or certificates. Furthermore, each organization must demonstrate its sense of public responsibility. In addition, agencies seeking recognition must make their evaluation procedures public and require institutional or program self-analysis along with on-site visits. Beyond this, each

agency has to recognize the distinctive purpose of each institution while encouraging experimentation and innovation among its accredited members. Member agencies must also agree to guard the confidentiality of the accrediting process (Council on Postsecondary Accreditation 1975, pp. 1-2).

Although COPA disavows any role as a clearinghouse for complaints against accrediting agencies, an elaborate procedure is provided in the event that complaints are received (p. 3). COPA's prime constituency is identified as the institutions and programs that are themselves accredited by COPA's members, and then the accrediting bodies and the public. Throughout its promotional literature, COPA stresses that "The accrediting agencies, while established and supported by their membership, are intended to serve the broader interests of society as well (*Accredited Institutions of Postsecondary Education . . .*," 1975, p. 294).

Within its first year and a half of operation, COPA achieved its objective of speaking out on behalf of private nongovernmental accreditation. Furthermore, it has locked horns with other components of the eligibility relationship (see for example "Flap Developing Over Institutional Eligibility Proposal," 1976). Perhaps indicative of the expectations held for the organization is the proposal by Orlans and colleagues (1974) that COPA be used as the recognition body for accreditation agencies—using the Advisory Committee to the Commissioner as an appellate group. This was acknowledged to be a conflict of interest, since COPA would be regulating its own members, thereby negating some of the value of its function as a buffer (1974, p. 491).

Summary

Private, nongovernmental accreditation has flourished in the U.S., where a traditional vacuum in federal and state regulation encourages improvement and standardization of practice from within postsecondary education. Recently, attention has been drawn to accreditation because of its role in the eligibility relationship and education consumer protection. Both types of accreditation, regional and specialized, feature evaluative practices that focus inward on the objectives of an institution. Because of the mystique attached to accreditation, a variety of perceptions of it are held by the public; and not without cause, since it serves a variety of purposes. Criticism is directed at the accreditors for their alleged insensitivity to consumer problems in education and disdain of federal regulation. Their response tends to focus on the shortcomings of the other elements in-

volved. Each public of accreditation holds distinct expectations for it that make it impossible to please everyone. The new organization of accrediting agencies, COPA, is drawing together the disparate groups of accrediting agencies and seeks to improve both practice and image.

The Rights and Role of the States

What the role of the states should be in determining eligibility and in protecting student educational consumer interests has been a continuing matter for inquiry. The Federal Interagency Committee on Education (1974) questions whether state actions can be strengthened so that criteria employed by the states are more indicative of quality (pp. iv-v). The laws, their enforcement, and judicial results vary widely among the states. The requirement that state chartering and licensure precede federal eligibility reflects some trust in state action; yet in most instances additional evaluation procedures, such as Veterans' approval and accrediting, are required before the federal government accepts a state evaluation (pp. 33-35).

In some measure, the states recognize that a new level of responsibility has been placed on them due to federal legislation and the new awareness of educational consumer concerns. Thus, in North Carolina the Board of Governors (1976) explains that since the Education Amendments of 1972 made the basis for recognition of institutions less restrictive, the world of eligible postsecondary institutions has grown from 3,000 to 14,000 (p. vii). Consequently, greater care must be taken by the states to protect the educational consumer from unethical or fraudulent practice, and the Board accepts the challenge.

One oft-repeated message is that every American school exists in some measure with permission of the state either by license or by toleration if no licensing laws are in force. For this reason, it is argued, we should turn first to the states for remedies of those complaints about fraud and abuse that accompany the debate on eligibility (National Advisory Council . . . 1975, p. 1). Looking at the situation in this light, "existing abuses are the responsibility of the States, sometimes attributable to nonexisting and obsolete laws, sometimes to weak laws, sometimes to weak administration, and sometimes to mere neglect" (p. 7).

For an institution to acquire eligibility, state licensing is usually the first required element. In theory, this means that should any school have its license to operate revoked, it would immediately lose its federal eligibility. However, because of lack of communication and other problems, license revocation has not always meant suspension of eligibility (pp. 8-9). Furthermore, state licensing has generally reflected minimal standards. For this reason, the Veterans' Administra-

tion adopted the state approval agency method, and the Office of Education uses private accreditation as an additional measure of institutional quality. Furthermore, the state role in the determination of institutional eligibility may even be overlooked, particularly if "accreditation" is assumed to automatically represent eligibility and if the "coequal" statutory responsibility of the states is overlooked (Grants and Procurement Management Division 1976, p. 2).

There is no question that from the standpoint of possible protection of the educational consumer, the state has law and tradition on its side. Each state has sufficient legal power to handle problems of abuse and fraud (Meinert, forthcoming, pp. 3-4). Under the Constitution, the states are governments of general power that can claim any lawful power not claimed by the federal government. This includes the "police power" that permits the regulation of actions affecting public health, safety, and general welfare. However, limitations on this power may arise from lack of money or lack of expertise. A major impediment is that the police power applies only within a state, nor can it be used to impede the flow of commerce from one state to another. Even so, state power, correctly applied, can be used to deal with cases of fraud (Kaplin 1975, pp. 12-14).

State Functions

The granting of charters for higher education institutions has been a state function since Harvard was founded, but this has not assured that such institutions would receive the proper scrutiny of their standards either at the time of chartering or afterwards. This "laxity" has been attributed to the establishment of most institutions by churches, and the general belief within our society that minimal political control should be exercised over educational institutions. Dickey asserts that the consequence has been a lack of effort by the states to establish and enforce standards, even for public institutions (Dickey, Winter 1974, pp. 51-53).

Generally speaking, the states make a distinction among three types of institutions: public, private nondegree-granting (which includes most proprietary institutions), and private degree-granting (which are typically nonprofit). Forty-six states have regulation for the private nondegree-granting institutions. Administrators of state regulations for this type of institution are represented by the National Association of State Administrators and Supervisors of Private Schools. In contrast, until recently there has been little communication among the regulators of private degree-granting institutions, although there are over 1,000 institutions of this type, ranging from the oldest, most

established institutions to the newest, free-form schools. Few states have effective regulation of degree-granting institutions (*Approaches to State Licensing . . .* 1975, p. 3).

All states *charter* private degree-granting institutions, but this is the same type of document that applies to any corporation. Only a few states insist on special criteria for charters. As far as licensing goes, 33 states actually license degree-granting institutions, and it has been speculated that about 25 states have functioning licensing authorities. But this is a field where great changes are occurring. For example, under new legislation in Florida over 100 institutions have been closed since 1971 (pp. 7-9). One main limitation on licensing is that regionally accredited institutions are usually exempt, with many other types of exemptions being granted.

The purposes and conflicts in state licensing are as complex as those in accreditation. Licensing is designed to protect the public, students, and existing institutions. These interests may be hard to balance. Furthermore, although standards may be set prior to licensing, the enforcement of those standards in existing institutions is not easy, since the appropriate authorities may not hear of violations or law enforcers may be slow to act. As in other forms of regulation of education, definitions and standards are difficult to write. For example, what is a degree? What really is a college? (*Approaches to State Licensing . . .* 1975, pp. 9-10). Even very thoughtful proposals for licensing regulations, such as the ECS model legislation, have flaws in design and definition (p. 11).

How well does state licensing work, aside from the variation in its extent? One problem in dealing with intentionally fraudulent operations is that one state may close an institution only to find it reauthorized and operating in another state. There is no mechanism for interstate communication, and the limitations of the interstate commerce clause mean that from a national standpoint licensing will only be as strong as the weakest state (pp. 13-14). In addition to the need for better communication among state licensing officers, federal agencies, and accrediting organizations, the states' efforts generally need better legislation, better enforcement mechanisms, better staffs, more legal help, and greater public support (p. 15).

On the matter of actual operation and design of a state licensing system, states can operate with three different designs in mind. One model specifies minimum standards. Another imitates accreditation and encourages institutions to set their own goals and move after them. A third method emphasizes "honest practice," and requires that institutions verify any claim and all records (pp. 17-19). Each

method raises questions. Minimum standards may be just that and no more, may indicate little with respect to quality, and may be applied only with great difficulty to nontraditional institutions. The pursuit of specified goals raises questions about whether all objectives are legitimate and closely resembles private accreditation. The "honest practice" approach raises the question of whether all practice is legitimate simply because an institution is honest about it. These questions emphasize an underlying problem in state licensing: there is no well-established theory of what it should accomplish.

Another major problem in licensing is how to deal with out-of-state institutions. Many institutions are selling programs across state lines. If they are accredited, they may be exempt from examination by the host state even if legitimate questions have been raised about their standards of operation. If state licensing authorities are too forceful, they may be charged with limiting competition. Programs on military and government bases may be beyond regulation (pp. 23-26). Regardless of these questions about the purpose and accomplishment of licensing degree-granting institutions, the novel discussion of it as a consumer protection measure and as an element in the determination of eligibility has resulted in the identification of directions for progress—moves to encourage states to be involved with licensing, proposals for information clearinghouses, plans for research, and discussion on what state licensing can accomplish (pp. 27-28).

Criticism of State Efforts

Among the elements of the eligibility relationship, the states have consistently been on the receiving end of criticism, usually in the context of: "Yes, the states have a responsibility but it's minimal, and they don't do anything anyway." Thus, Young, in endorsing the triad concept of state, private, and federal determination of eligibility, suggests that few state agencies are currently qualified to evaluate educational quality, and if they were, they would not be the appropriate agency to do so because state charter and licensing should be separate from the evaluation of quality (Young, May 1976, p. 2). The AIES, in observing that state approval does vary widely from state, with some states exercising effective control, avers:

> In most States, however, the supervision exercised by governmental authority over nonpublicly controlled institutions is very limited. State approval may therefore mean much or little, depending on the kind of supervision exercised and the specific areas or professional fields for which the State maintains approval procedures.

In other words, the term "state approved" does not mean as much as

it might imply (Accreditation and Institutional Eligibility Staff, no date, p. 2).

In justifying a proposed study of state oversight in postsecondary education, the Office of Education comments that "most State Approval Agencies appear to lack stringent legislative authority, and [have] limited staff resources to assess, approve, and monitor the operations of postsecondary institutions." The result, if strong second judgments are not available, is dysfunction in the eligibility process. Doubts regarding the quality of state operation are reinforced by a lack of information about the actions of licensing and approving agencies (Grants and Procurement Management Division 1976, pp. 1-3).

Proposals to increase reliance on state agencies for determining eligibility also provoke objections (Orlans et al. 1974). For one, although model legislation, such as that proposed by the ECS, may be a key to uniform regulation, the existence of 50 states suggests that 50 separate standards are possible. State regulators may be more subject to political pressures, and greater reliance on state agencies will simply transfer greater power to them (pp. 493-494).

From the point of view of the AIES, the ideal state function would be to establish and enforce minimum standards that ensure a student could achieve his objectives if the institution claimed to have programs and resources to enable him to do so. But the AIES expects minimal performance from the states:

> In reality, the States are now at varying levels of sophistication in approving educational institutions or programs, and even if all States were performing at the optimum level, there would still be variance among the States in interpreting and enforcing requirements. . . . It is evident that the evaluative apparatus of many States is not adequate to guarantee the public that it is spending its money for quality education ("The Federal Eligibility System . . ." 1975, pp. 41-42).

Naturally, criticism of state licensing activity has drawn responses from those involved in it. Clark (1975) observes that the moves of the federal government and the private accrediting organizations have often been rationalized by the charge that the states are not doing their job, which, it is usually implied, should be only to license or approve institutions initially. Clark alleges that the perception of the role of the states held by the federal government changed between 1940 and 1970, with the gradual deemphasis of any qualitative evaluation on the part of the states, with reservation of that role for private associations. However, the states did not know this, so that greater

regulatory power was assigned to state agencies by statute. Citing a study conducted for NASASPS, Clark suggests that most states now have sufficient rules and regulations to regulate postsecondary education, even though this has not been called to the attention of Congress. Also, the power given by the Office of Education to 12 states to accredit public postsecondary institutions raises the question in Clark's mind of how state agencies can legitimately approve public postsecondary institutions and not be authorized to approve private institutions.

Thus, there exists a state agency point of view also about its role in eligibility determination and protection of the public. One additional issue is whether state approval should be called "accreditation." Clark suggests that any term can be used as long as accreditors and federal officials recognize that some state approval is fully as substantial a sign of quality as accreditation.

Proposals for Improved State Role

Numerous measures have been tried and some have succeeded in elevating the state role in the determination of institutions eligible to participate in federal-aid-to-education programs. One measure that also serves as a divining rod to identify the true position of organizations regarding state role in the eligibility relationship has been the Mondale amendment. Wording of the amendment is simple: "The Commissioner shall publish a list of State agencies which he determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs" (Section 438(b), 1972 Amendment to Higher Education Act of 1965). The divining rod is activated when the proposal is made that the Mondale amendment be extended to *private* postsecondary vocational education to give the states a chance to prove themselves (Clark 1975, p. 20).

Thus, in approving the intent of the Mondale amendment, the National Association of State Administrators and Supervisors of Private Schools (1975) notes that a major reason why state agencies have not been recognized by the Office of Education as reliable authority on the quality of postsecondary institutions generally is their limited scope of operation; that is, they are neither national nor regional in scope. Yet, since the Mondale amendment sets this requirement aside in some states for the purpose of determining eligibility for *public* postsecondary vocational education, NASASPS argues that there

is no reason why the same agencies cannot determine the quality of private postsecondary vocational schools.

From the NASASPS perspective, 438 (b) should be amended so that "private" is added or "public" deleted. This would permit state agencies with appropriate quality standards to apply for recognition from the commissioner. In their judgment, this would result in "improved quality" for both public and private institutions. Although many states would have to beef-up their criteria, several, in NASASPS's judgment, could presently meet the recognition standards; all but four states have statutes and regulatory agencies. Those states that could meet the criteria with minor changes would quickly do so, and other states would also be encouraged to change (p. 2).

Thus, expansion of the Mondale amendment, as outlined in the proposed eligibility language circulated in 1975 and 1976, was also supported in position statements by the NASASPS. Furthermore, the organization claims that expansion of the Mondale amendment was originally supported by the AIES in public presentations in December 1975. However, by January 1976, the expansion provision had been dropped as a result of strong opposition from COPA and the American Council on Education, at least in the view of NASASPS. "The AIE Staff explained, to the president of NASASPS, that the deletion had been made due to the extreme pressure exerted by COPA and ACE and the fact that significant evidence in support of the expansion was not evident" (National Association of State Administrators and Supervisors of Private Schools, January 1976, p. 1).

But, from the point of view of Fulton and Hart (1974), who testified before the Subcommittee on Education of the Senate Committee on Labor and Public Welfare and represent the accrediting commission of the Association of Independent Colleges and Schools, an association of private business institutions, the Mondale amendment is only an "exemption," or an exception to the rule. It permits certain classes of schools to be exempt only because they did not have access to accreditation. They argue that to expand the Mondale amendment would deprive both the Office of Education and Congress of the benefit that derives from the private evaluation occurring with private, nongovernmental accreditation (pp. 308-309).

Young (December 1975) comments that while private accrediting organizations should not be the only means available to the government to evaluate educational quality, the additional costs, lack of "checks and balances," conflict of interest, and problems of definition of what vocational education is, support COPA's opposition to any broadening of the Mondale amendment (p. 4).

The preservation of the status quo regarding the potential of the state role is represented by Kaplin (1975), who argues that if the federal government chooses to rely more on the states, it should do so only in situations where strong accreditation does not exist and in instances where the state is already active in state licensure and approval functions. In this way state agencies would do what they do best, rather than becoming more and more like accrediting agencies (p. 30).

In contrast, Clark suggests that state agencies are in agreement that recognition of them as determiners of quality would have a standardizing and unifying effect among the states, while permitting intrastate variation and distinction. He argues that the basic responsibility to authorize or stop institutional operation rests with the states. Moreover, aside from their responsibilities, states are in the best position to actually enforce and maintain standards among postsecondary institutions, much more so than accrediting agencies (Clark 1975, pp. 18-20). Clark recommends trying an experimental program by which the Commissioner of the Office of Education would pick several states, accept their recommendations regarding institutions, and make changes in recognition criteria on the basis of that trial experience.

The arguments that NASASPS (1975) presents for the recognition of state agencies are as follows: It would permit the standardizing and unifying of state regulations while permitting necessary differences. The states have the legal responsibility to issue authorization for schools to operate anyway. States have a moral, financial, and constitutional responsibility to assure quality and, because of their routine visits, they are in good position to maintain the appropriate standards. States are less vulnerable to legal action than are private agencies, and can operate at less cost per institution. In their judgment, state agencies can operate with less regard for competition and they can quickly relate institutional compliance or lack of it to regulations regarding the licensing of technicians, professionals, and others (p. 3).

Regulations for the recognition of state agencies found to be reliable authorities on the quality of public postsecondary vocational education, under present legislation, have been published by the Office of Education (U.S. Office of Education 1974; Accreditation and Institutional Eligibility Staff, June 1975). Such recognition is regarded as an alternative to accreditation. The regulations for recognition of state agencies are similar to those for private agencies, but there are differences. For example, a state agency is proscribed from performing functions that would be inconsistent with judgments of edu-

cational quality; it must have fair, written procedures for the processing of complaints against institutions it recognizes; and it is specifically required to "foster ethical practices," so that institutions have ethical recruitment, advertising, and tuition refund practices (U.S. Office of Education 1974, pp. 30043-30045).

Changing Role for the States

Meinert (forthcoming) believes that the states are beginning to assume a more distinctive and powerful role in the regulation of postsecondary education, one which is consistent with their role as the primary control agent for institutions as well as a primary source of protection for consumers. In addition to a tendency for the states to draw away from their relationship with the accrediting agencies, he sees a trend of state licensing people to acknowledge the weakness of their performance; a growth in their perception of licensing as a public protection function; and a tendency toward more control, particularly of out-of-state institutions (pp. 2, 4, 9, 18-22).

An example of a relatively new set of rules and standards may be seen in the regulations that apply to nonpublic education institutions seeking to confer degrees in North Carolina. These rules specify a set of minimum standards for licensure, including the following: a state charter; two years of operation; quality and content of programs that indicate their objectives can be achieved; adequate resources and staff; adequate information for students; appropriate credentials and records for students; compliance with safety laws; sound finances; no false advertising; reputable owners and operators; fair and equitable refund policies; no exclusion because of race, sex, creed, or national origin (Board of Governors 1976, pp. 2-3). Another move urged on the states is to implement the ECS model legislation (Dickey, Winter 1974, p. 54). This is the model used in large measure by North Carolina (Board of Governors 1976, p. vi).

Apparently reflecting a federal government interest in greater use or reliance on state agencies, a proposed study of state oversight procedures will address the question, What criteria should be used to determine acceptable operational procedures? The lack of data on the performance of state agencies will be addressed along with the data in use to assess postsecondary institutions. All procedures used in the 50 states will be reviewed and recommendations developed for the appropriate role for the states. Then recommendations for the improvement of state practice will be drawn. Instruments will be developed to assess the procedures and practices used by the state approval agencies, with the intention of developing an information system to

assess the performance of state agencies regarding the eligibility process (Grants and Procurement Management Division 1976, pp. 2-8). Because of the variation in state practice, the instruments designed will indicate "zones of acceptability and nonacceptability" for items that identify effective practices of state agencies in postsecondary oversight (p. 9).

To achieve consumer protection, the federal government has given consideration to greater reliance on state agencies, since they are perceived as being capable of closer surveillance of institutions and quicker corrective action (Muirhead 1974, p. 135). The federal government has also been urged to use its resources to improve the training of state education staff members to promote cooperation of those staff members in determining eligibility and to increase exchange of information (Orlans et al. 1974, p. 18). Millard (1975a) suggests that as states develop more adequate regulation their assessments can be given more weight in the determination of eligibility; if all states had adequate regulations, state recommendations would suffice. It is also important to recognize that some states, such as New York, actually do accredit as well as charter and license. In many cases, a quasi-accreditation is performed, such as with VA determinations. For these reasons, Millard argues, "it is important it would seem, to recognize perhaps more formally than is now the case that the states do or should play an important role in determining eligibility, although state licensure or accreditation usually is not a sufficient or all-inclusive condition for such eligibility" (p. 27).

Clark also has argued that the protection of the public and the determination of eligibility cannot be determined by using accreditation as the sole measuring device; a cooperative venture is required. He does not want 50 separate accrediting bodies, only 50 strong approval bodies designed to protect their citizenry. From that point of view, he urges, "let the states determine that a school is ready to provide educational services and let the states provide the enforcement, if needed, to correct abuses. Let the accrediting bodies provide educational excellence and let the federal government coordinate and assist" (Clark 1975, p. 21).

Summary

The appropriate role of the states in the eligibility relationship, has been traditionally restricted to the licensing and chartering of institutions as a prerequisite to accreditation and eligibility determination, with some notable exceptions, such as New York. This role has been subject to scrutiny and criticism. A typical theme holds that the

states have not accepted responsibility for even minimal levels of performance by postsecondary institutions. The reaction of state officials to these charges reflects the conviction that the states perform better than is commonly perceived and could accept more responsibility for qualitative evaluation of institutions. The Mondale amendment, which permits a few state agencies to approve public postsecondary vocational institutions, represents a potential change in the course of activity for state agencies, since it appears that the state agency authority to approve public institutions could easily be extended to private institutions. This extension is opposed by many within private accreditation. Nevertheless, driven by concerns for educational consumer protection, many states are increasing their monitoring activity and improving the regulation of postsecondary institutions, moves that could lead to a greater role in the eligibility relationship.

It seems unlikely that any radical change in the current eligibility relationship can be expected. "The capabilities, interests, and constituencies of each element are sufficiently different, and the traditions of federalism and private responsibility in postsecondary education are sufficiently strong, that substantial elimination of any element is unlikely both politically and as a matter of educational policy" (Kaplin 1975, p. 26). Given this circumstance, Kaplin suggests that the immediate task for those involved with eligibility is the identification of what each element in the eligibility relationship does, particularly what it does well. Along with this should come better division, coordination, and interrelationship of the functions performed by the separate elements (p. 27).

A less sanguine analysis of the eligibility problem has been made by Orlans and colleagues. After the expenditure of thousands of dollars and hours and the preparation of a massive report on the use of accreditation in the determination of eligibility, they state "we see no really satisfactory solution to the general eligibility problem—to identifying fairly and reliably which postsecondary offerings students receiving federal aid should be free to choose" (1974, p. 2-3). All of the systems in operation have "serious defects." Yet several systems can be workable, even with their inherent defects. It is difficult enough to evaluate the colleges that exist in the United States. When that number is joined by all the now-eligible institutions in postsecondary education, a total number estimated at 13,000, the problem of fair evaluation to determine quality and eligibility is "fearsome" (p. 34). Perhaps one fitting response to this dilemma may be found in Millard's (1975a) comment that if Orlans means a *perfect* system for determining eligibility, one where every institution functions in the finest manner, then his observation is correct but similarly applies to every human endeavor. On the other hand, if we are willing to accept a "reasonable approximation," where institutions do what they say they do and are accountable if they do not, and where there is reasonable reward for work by the student at the chosen institution, then perhaps Orlans' dismal appraisal can be rejected (p. 26).

Suggestions for Improving the Use of Accreditation

Any discussion of proposed solutions to problems associated with the determination of eligibility is biased by the individual perception of what the purpose of eligibility is and what Congress intends the nature of the eligibility relationship to be. Thus, Finkin, who supports a restrictive view of the authority of the Office of Education, suggests that the role of accrediting agencies was intended to be that of trade associations, such as those specified in federal contracts, as the promulgators of standards. Using this approach, the role of the Office of Education in changing the practice of accrediting agencies would be strictly limited. Indeed, Finkin suggests that the Office of the Commissioner of Education has construed its own role beyond that intended by legislation. In his view, little change is necessary in the activities of accrediting agencies; if they narrowly represent the interests of the institutions they accredit, they are doing precisely what was intended (Finkin 1973, pp. 374-375).

One the other hand, Orlans and colleagues (1974) suggest that the value of accreditation could be improved and its public esteem increased, if accrediting agencies returned to a much earlier practice of rating the quality or character of institutions they accredit (p. 5). Furthermore, a strong recommendation is made that competition be promoted among accrediting agencies by the elimination of Office of Education regulations that proscribe more than one accrediting organization in a geographic region or duplicative accrediting organizations in the same professional or occupational field. Any agency meeting criteria would be recognized (p. 6). Orlans regards the accrediting agencies as having a monopolistic hold on access to federal benefits. For that reason, he recommends the development of alternative avenues to eligibility, or if small numbers of institutions are involved, no use of accreditation at all to determine eligibility. The sole reason to preserve the use of accreditation in the determination of eligibility is that accreditation acts as a counterweight to the government bureaucracies in education and maintains the "principle of quality distinctions which only private agencies can draw" (p. 10).

As one alternative to the use of accrediting agencies in the eligibility determination process, Orlans and colleagues suggest the formation of a Committee for Identifying Useful Postsecondary Schools. This committee, a semiprivate organization, with either federal financing or some form of nonprofit status, would designate schools and programs that are useful and ought to be eligible for federal funding (pp. 11-13). Since publication of the Orlans report (late 1974, early 1975), little acclaim has arisen over this idea, perhaps because,

as Kaplin has suggested, the powers and traditions are too well established.

Orlans' opinion of the accrediting agency role in the determination of eligibility and his lack of faith in the value of accreditation are apparently based on his appraisal that "the financial importance of eligibility has influenced accreditation judgment and impaired the voluntary nature of accrediting" (1974, p. 196). Furthermore, since, in his view, the institutional accrediting agencies have hardly maintained their standards, it is not realistic to expect proprietary accrediting agencies to do better. For these reasons, he recommends a reduction in reliance on accreditation and the development of alternatives to its use, such as greater reliance on state evaluation or the use of the Committee for Useful Schools (p. 219).

General Improvement of the Eligibility System

The general problem of eligibility and consumer protection among the three eligibility systems has been discussed by Arnstein (1975), who makes several recommendations for improvement of the system. In his judgment, provision must be made for full disclosure of important facts pertinent to the operation of postsecondary institutions. Next, each institution and individual administrator must be held accountable. Legal means are available to accomplish this objective. Also, certification could be required that would be revoked if the operator or administrator of a school permitted it to operate in an unlawful manner. Arnstein suggests that an information clearinghouse would increase the flow of information relevant to eligibility and consumer decisions (p. 397).

Arnstein also makes a number of suggestions specifically for the federal government. He would begin the improvement at the federal level with better coordination of federal action and greater sharing of information. He urges that an adversarial relationship be introduced between borrower and lender of federal student loan funds. Institutional eligibility should be renewed annually or time-limited. The federal government should assume a leadership role for other elements of the eligibility relationship by providing a research center and technical assistance and by founding an information exchange center. Arnstein suggests that the federal government has relied on both the states and private accreditation without giving much thought to the development of these allies. This parasitical relationship should be ended (p. 398).

Arnstein's approach is reflected in the recommendations of the National Advisory Council on Education Professions Development,

which is designed to encourage the development of a "self-enforcing system." The disclosure of information about schools to students and the creation of redress procedures for students through appropriate state legislation will keep institutions in line (National Advisory Council 1975, pp. 17-18). Clout to initiate the system will come from a requirement that institutions must disclose the information if they seek to be eligible.

Similar recommendations have been made to the Commissioner of Education by the AIES (January 28, 1975) subsequent to their investigation of the *Boston Globe* series on alleged malpractice in post-secondary vocational schools. The AIES recommends that the Office of Education become a catalyst for the development of an "early warning system" that would spread information among the elements responsible for eligibility determination when a school begins to flounder or abusive practices are initially detected (p. ii). This recommendation is based on the premise that the fundamental defect in the eligibility system and in consumer protection mechanisms is a lack of information and communication (p. 19). Other measures would bolster the resources of state agencies to deal with post-secondary vocational institutions. Under rules and regulations proposed by the AIES, a school would be required to have a sound financial structure and satisfactory resources as well as ethical practices in advertising, representation, and refunds. Schools seeking eligibility would be required to meet state-imposed standards of this nature. The Commissioner's authority to recognize state agencies as reliable authority on the educational quality of private schools would be broadened. Also, his authority to limit, suspend, and terminate eligibility of institutions would be strengthened. Program eligibility language would be bolstered by requirements of public disclosure of attrition, completion, and placement rates, and the disclosure of evidence that a program is achieving a vocational purpose claimed for it (pp. 20-23).

The value of an information-disclosure requirement has been affirmed by Millard (1975a), who suggests that it is reasonable and feasible to require schools that want to be eligible for federal funds to disclose basic information about their operations, including their tuition policies, institutional purpose, details about programs, and financial stability. For vocationally oriented schools, general information should be required about placement. Such requirements should be written into statutes but could be easily required by the Office of Education (p. 27).

Other recommendations of a general nature regarding eligibility were developed by the participants in a National Invitational Con-

ference on Institutional Eligibility, which was sponsored by the Office of Education and held in Arlington, Virginia, April and May 1975 ("Summary of the Reports of the Five Seminar Groups," 1975). One recommendation is that the Office of Education develop a single set of eligibility requirements to which program-required additions could be added (p. 33). Another step recommended was the continued employment of accreditation in the eligibility process, "unless it is replaced by a process at least as demanding in its assessment of educational quality as is accreditation." Also recommended was an expansion of the Commissioner's authority to limit, suspend, or terminate eligibility over all OE-administered funding programs for postsecondary education. The tripartite eligibility systems (state, private accreditation, federal agency) received support from the recommendation that it be "vigorously fostered." Another recommendation provided that alternative avenues to eligibility for institutions without access to accreditation be developed. Finally, the now-accomplished suggestion was made that the AIES be moved up in its organizational placement within the Office of Education. Fulton (1975) supports the use of the eligibility relationship as it currently exists, but approaches improvement from a different angle. He argues that if the Office of Education uses the authority it has, no alternative means to determine eligibility would be necessary. Furthermore, he claims that under current legislation program administrators could exercise more authority to assure that the results intended for funding programs are accomplished. To his mind, the tripartite system works well to determine eligibility; other mechanisms and approaches should be used to correct deficiencies (p. 14). Fulton and Hart (of the Association of Independent Colleges and Schools) jointly testified that they look forward to the time when the Office of Education will use the authority it has to limit, suspend, or terminate eligibility without waiting for the withdrawal of accreditation by private agencies. "The USOE should do directly what it is now doing indirectly through our accrediting agency and at our expense" (Fulton and Hart 1974, p. 320). Since withdrawal of accredited status by private agencies has resulted in suits, and in order to provide an alternative path for institutions that have lost their accredited status, Fulton and Hart recommend the creation of a super appeal board, one with immunity from prosecution, which would come into play only after accreditation had been denied. This board would evaluate the merits of the institution's claim without resorting to legal action (p. 324).

All of the foregoing recommendations have called for changes or improvement in the existing eligibility relationship. Many are being

pursued or have been implemented. One must look at the range of theoretical eligibility systems to really undertsand the scope of potential changes that strike closer to the underlying constitutional problem.

Theoretical Eligibility Systems

The present eligibility system operates with the appearance of considerable slack, but is capable of strong reaction when roles of participants are threatened. It is designed to make a political accommodation to a constitutional accident—the federal government has no assigned responsibility for education.

A theoretical treatment of possible alternative eligibility systems is provided in the *Report on Institutional Eligibility* (1975). If one asks, first, where the responsibility for the determination of eligibility should reside—federal government, state government, or private group—one set of factors emerges. Eligibility would be awarded on the basis of disclosure, approval, or universal or automatic availability. The choice of process would dictate the use of a disclosure statement, an outside study, or a basic qualifying document, such as a state charter. If the universal or automatic approach were followed, a range of posteligibility mechanisms might be used, such as audits, hearings, information distribution, and sanctions. When these factors are combined, a series of theoretical eligibility models can be constructed.

A *disclosure system* would be based on the premise that eligibility and accreditation are separate operations. Students will regulate the market by their choice of institutions, which would be based on reliable information. A disclosure statement might be filed each year and audited. Failure to file, or fraudulent reporting, would result in the termination, limitation, or suspension of eligibility. Information would be disclosed to students through government publications and categories (pp. 10-11).

With a *state-based approval system*, the role of the states would be increased because of the state responsibility and public nature of the decision. State procedures would be strengthened so that each state had an approving office. Accrediting organizations might be an alternative to state approval, with the federal government acting as the appeal source.

Under the *private approval system*, the use of private accrediting group determinations would be emphasized in the eligibility decision. This model is basically the present system, but heavily strengthened by alternative, private means for eligibility for those institutions that

do not seek accreditation. It will also strengthen the state role prior to accreditation (p. 12).

With a *universal eligibility* model, all types of postsecondary institutions would be eligible based on their performance. The federal government would not make qualitative decisions in advance about institutions, nor would private organizations. Any institution with a license or charter from a state would be eligible. Then a single federal office, acting on complaints about performance, would be empowered to suspend eligibility and reinstate it (p. 13). Regulations would be strengthened to emphasize the consumer and public protection aspects required of institutions to maintain eligibility.

In addition to the theoretical decision models just described, many system models and solutions to the eligibility determination problem have been proposed that represent various combinations of actual practice and proposed solutions. These proposed solutions are also summarized in the *Report* (1975).

Under the *accreditation model* the present system would be retained. Eligibility is in large measure dependent on accreditation, after institutional chartering by the states. Alternative mechanisms other than accreditation would be available to institutions, but the emphasis is on accreditation (p. 14).

Accreditation may be *enhanced by an audit process.* Under this proposal, an evaluation in the form of an educational audit of an institution would be conducted by private agencies, which would publish their results as a short-form report. A long form would be used by the accrediting agency. The audit would be performed by professional education auditors (p. 14). (For fuller explanation, see Harcleroad and Dickey 1975.)

Another model would require *accreditation and full fiscal disclosure.* A set of federal criteria would be published that would require the institution to meet the existing eligibility constraints and furnish a fiscal audit examining the use of federal funds and establishing the financial responsibility of the institution. The Commissioner would develop the audit form (*Report . . .* 1975, p. 14; see also O'Hara Bill H.R. 3471 presented to the 94th Congress).

Accreditation could be augmented by *additional organizations.* Under this solution, the alleged shortcoming of accreditation is attacked by the addition of alternatives means for institutions to achieve eligibility other than through existing accrediting agencies. An example is the Committee proposed in Orlans and colleagues (1974), which is designed to identify useful postsecondary institutions (*Report . . .*, 1975, p. 15).

A *completely separate national agency* to determine eligibility has also been proposed. The determination would be made on the basis of disclosure of information about performance and capacity (*Report . . .*, 1975, p. 15; see also *Second Newman Report* 1973, p. 108).

In another approach, *complete responsibility* would be given to the *federal government* (U.S. Office of Education), but *minimal criteria* applied to the decision. Accreditation and eligibility would be separate processes; the emphasis in eligibility would be basically truth-in-advertising on the part of the institution (*Report . . .*, 1975, p. 15).

In contrast to that approach, another model places *responsibility* also *with* the *federal government* but suggests *maximum use of criteria* by the responsible federal officials. This would require that institutions state their objectives and provide complete information about how they would achieve their objectives (pp. 15-16).

The *states* could be given *responsibility* for determining eligibility if eligibility were dependent solely on chartering. Eligibility and accreditation would be separated, the role of accreditation being to see that the quality of performance continues (p. 16).

Another variation on the state responsibility model would make *eligibility dependent on* the decision of a *state agency*, such as a veterans' approval agency. Eligibility would be dependent on the state's continuing approval of the institution and public disclosure of performance information by the institution (p. 16).

Another possible model solution proposes the use of a *cooperative mechanism between state* and *federal officials*, which would act as an alternative to private accreditation. Under such a mechanism, the Commissioner would specify criteria for the recognition of state agencies and the Office of Education would determine eligibility if the states did not comply. Eligibility requirements would be established by the Commissioner and enforced by the states. Special cases and appeals could be dealt with by the Commissioner (pp. 16-17).

Finally, a variation on the existing system would employ *two independent judgments* (such as state and private accreditation) to recommend eligibility. Then eligibility could be reviewed, terminated, limited, or suspended on the basis of an audit of the institution's performance (p. 17).

Summary

The possibility exists that no solution to problems within the eligibility relationship can be created that would extensively alter the role of current participants. Most suggested modifications tend to boil down to a greater or lesser role for the federal government, or

greater or lesser regulation by the accreditors. General suggestions for improvement emphasize increased communication among the components of the eligibility relationship and more information for the consumers of educational programs who seek to participate in programs at eligible institutions. It has been argued that federal program administrators need only to use the regulatory power they have already been given. A wide range of theoretical solutions and models is possible when answers are provided for questions regarding who makes eligibility decisions, at what point, and based on what information.

A Concluding Statement

The use of nongovernment accreditation by the government in determining which institutions will be eligible for federal aid is a thorny issue. It is a political problem, and points of view are presented as obvious truths to bolster and maintain the role of the many parties involved.

The heart of the issue is that the federal government, which has no constitutional mandate relating to education, must deal with established institutions of higher education and private educational agencies with its hat in its hand. If there were clear constitutional directives that education be aided by the federal government, legislation and administrative practice could be tailored to deal more directly with the problem of how to select those institutions to whom money should be given. To accomplish the possible, federal-aid-to-education legislation has required, in reality, that institutions be accredited by nationally recognized, nongovernment accrediting organizations, after such organizations are recognized and listed by the Office of Education. This has had the effect of making accreditation the equivalent of eligibility, except for institutions clearly not eligible under straightforward legislative requirements. Even if the legislation were forthcoming that insisted only that the money be used in a manner consistent with the purpose of the legislation, administrators would face a problem of determining which institutions would properly use that money. They would have to make a qualitative judgment about an educational institution. Accreditation has been used as the indicator of quality. Only recently has the problem of really defining quality been confronted.

With the growth of educational aid programs for postsecondary education, and the extension of range of eligible institutions, the congruence between quality and accreditation assumed in the legislative and administrative practice has been questioned repeatedly. Educational consumer protection issues, in part arising from the availability of money for institutions to induce students to attend, have acted as the spark to fire up Congressional inquiries into the relationship of eligibility to forms of educational fraud and consumer abuse. In the wake of these inquiries, accrediting agencies, institutions, federal administrators, and state licensing people have responded by saying "we're only one element of eligibility," "if they

would only do their job, there would be no problem," and "we could do the job if you would only recognize us." Although educational consumer protection is really a side issue to the use of accreditation in eligibility determination, it has prompted debate on the major questions about accredition and eligibility.

At the risk of appearing to agree with the Orlans conclusion—that there is no solution—it does seem that no tidy improvement in the eligibility relationship can be expected until the lines of authority for federal administrators are tightened, which is not likely; or a constitutional amendment or major structural change occurs that clarifies the role of the Office of Education or a successor in supporting postsecondary education, which is equally unlikely; or until the accrediting agencies begin acting like policing or monitoring agencies, which is also unlikely. This leaves the intermediate step as most probable. This means the program regulation authority and nonqualitative aspects of eligibility determination will be tightened, although no substantive change will occur in the power of the AIES (now a division). Attempts to give that office teeth through legislative change will continue to be frustrated. A movement to improve the quality of state licensing and chartering of postsecondary institutions is quietly underway, and it will gradually mean less fraud and quicker action to quash institutional malpractice by eligible institutions. There is also change underway to upgrade accreditation programs so that what accreditation accomplishes will be clearer. COPA may be able to accelerate that improvement. No doubt efforts to improve communication between elements of the eligibility triad will come to pass and promote quicker action.

Given the political character of the problem, a few obeservations can be made.

1. Whatever one believes the federal role in education to be, its seeming ineffectiveness in looking after the use of its own money, represented by a few instances of fraudulent practice by institutions, can be traced to an underlying constitutional problem: an absence of clear authority for the federal government to spend money for education, and a subsequent inability to regulate those expenditures.

2. Those who search for an ove all governance mechanism for postsecondary education in the United States will look in vain; therefore, to label problems in accrediting, licensing, and federal eligibility mechanisms as a weakness in the "oversight mechanism" misses the point. Much of our educational enterprise operates on the good will of those involved. Yet, those instances where that relationship fails are not

pursued with much vigor by the faithful, who frequently excuse any problem with defensive rhetoric.

3. It is hard to understand why accreditation is involved at all in the eligibility decision. It is an anachronistic use of a system that perhaps provided legitimacy to decisions in the past, but now does not accommodate the much broader concept of postsecondary education in use today. The dependence of the eligibility determiners on accreditation puts them in a ludicrously dependent position also. A post-audit mechanism might be just as effective in monitoring the use of federal money. If accrediting organizations were out of the eligibility relationship, they could concentrate on identifying what they do accomplish in the way of institutional and program self-improvement, since they are nongovernment organizations with the interest of their members at heart.

4. The "kicker" is the potential of the state licensing and chartering activity. If we are disillusioned with the effects of federal involvement in education, perhaps there is sufficient sentiment to support strengthened state agency activity in moritoring postsecondary institutions. Law and traditions are on the side of an increase in state oversight.

5. Discussions about eligibility decisions and the use of accreditation should be kept in perspective: in reality, they focus on *who is to receive federal money* and *what special interests are to be preserved.* When this is understood, much of the rhetoric about growing federal regulations of higher education, who should accredit proprietary schools, or whether state licensing agencies are effective, can be seen for what it is.

The hardest task for the disinterested observer is to accept the self-interest motivation of all parties to the debate. Once accepted, this observation facilitates the understanding of the acerbity and mud-slinging that typifies some aspects of the discussion. Furthermore, it encourages more realism in looking for a solution to the eligibility determination problem. No responsible change can be anticipated unless pressure demands it.

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